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NAVAL POSTGRADUATE SCHOOL

Monterey, California



THESIS

HISTORY OF THE VOLUNTARY INTERMODAL SEALIFT AGREEMENT

by

Stacey L. Jones

June 2002

Thesis Advisor:
Associate Advisor:

Ira Lewis
William Gates

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HISTORY OF THE VOLUNTARY INTERMODAL SEALIFT AGREEMENT (VISA)

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Submitted in partial fulfillment of the
requirements for the degree of

MASTER OF SCIENCE IN MANAGEMENT

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ABSTRACT

The Voluntary Intermodal Sealift Agreement is a program designed through a cooperative effort between the Department of Defense, government agencies and private industry. It provides DOD sealift and intermodal capabilities in times of conflict, when there are insufficient organic and commercial ships. Developing the program took over seven years because of the historical factors influencing members participating in the program's design, and because of the changing structure of the global economy.

The changing global environment has shifted America's focus from "two nearly simultaneous major regional conflicts" to numerous smaller conflicts in various regions. Additionally, there were many changes in the way DOD operated while scaling back at the end of the Cold War. All of these changes were highlighted during the program's development, influencing its final design. This thesis examines the historical factors influencing the development of VISA, the current program's design and organization, the original intent of the agreement and whether it meets that intent, the incorporation of technology and VISA's role moving military material in the future.

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I. INTRODUCTION

A. BACKGROUND

The Department of Defense has utilized commercial carriers for moving military forces from the War of Independence to the present. World War I saw the government briefly flirt with constructing vessels to provide sufficient shipping capabilities for moving war material to support U.S. troops. However, having to ignite the furnaces of heavy industry and develop capabilities took time and ultimately, the “United States rode to victory in British vessels.”¹

Since 1789, policies and legislation have influenced the U. S. Merchant fleet and its role in moving material for the Department of Defense in both war and peace. International events in communications and trade of the past two decades have resulted in a shrinking globe. International commerce still relies heavily on transportation by sea. Differing national laws and wage scales now decide where ships are built, bought, manned and registered. This thesis will look at the historical factors resulting in the current environment in which U.S. Merchant fleets are competing, and the evolution of the Voluntary Intermodal Sealift Agreement (VISA).

B. THE RESEARCH QUESTION

The primary purpose of this thesis is to provide a chronology of the VISA program. To do so, it is necessary to provide a historical overview of the United States maritime industry. The thesis will focus primarily on those policies and legislative acts that resulted in the need to establish a working agreement between industry and the U.S. government to provide for moving Department of Defense material in both war and peace. The following secondary questions support the primary research question:

- What is the origin and current organization of the Voluntary Intermodal Sealift Agreement?
- Are the changes in VISA’s organization addressing the original intent of the agreement and does it currently meet that intent?
- How has technology been incorporated to VISA’s operations?
- How will VISA contribute to moving military material in the future?

¹ De La Pedraja, R., “Rise and Decline of US Merchant Fleet in the Twentieth Century”, New York, Twayne, p. 58.

C. SCOPE LIMITATIONS AND ASSUMPTIONS

In order to more narrowly focus the history of the United States maritime industry, this paper will look only at the legislative acts that had a direct and immediate impact. To provide a sense of orderliness, this will be conducted in chronological phases for the periods from America's independence to World War I; World War I to World War II; World War II to Operation Desert Shield; and Operation Desert Storm through the present day. This paper will not attempt to describe the entire history of the U.S. maritime industry, but will focus on laws and policies through each phase of the maritime history.

The various programs and agreements between government and industry will also be presented in chronological order. Their influence on the VISA program differs from the influence they were intended to exert on the whole of merchant marine shipping. Discussion of VISA's current organization and whether or not it meets its intentions will be derived from policies, legislation and comparisons to other transportation programs.

D. METHODOLOGY

Research was at the United States Transportation Command (USTRANSCOM) Research Center archives. Various documents were reviewed and selected for inclusion in this paper.

E. ORGANIZATION

Chapter II, "A Brief History Of Maritime Programs," will review maritime policies since 1789 and their cascading effect on today's U.S. merchant fleet. By defining each of these programs and acts, their impact on the evolution of the VISA program can be more clearly understood.

Chapter III, "The Voluntary Intermodal Sealift Agreement," will begin by identifying the agencies involved in creating VISA. In the 21st century, the U. S. government no longer makes policy decisions in a vacuum. With the Cold War over, the U.S. military had to realign itself with the new world order, and the threats it poses. It took a combined effort by members in DOD, government and industry to develop a feasible solution that could respond to this new global environment.

Chapter IV, “Analysis, Conclusions and Recommendations for Further Study,” will look at the mechanics of activating VISA and how it interacts with other existing MARAD programs. VISA will also be compared to the Civil Reserve Air Fleet (CRAF) program to delineate the similarities and differences between them.

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II. A BRIEF HISTORY OF MARITIME LEGISLATION AND POLICY

The United States had been a seagoing nation since birth. Founded and settled by colonists from the Old World, the New World survived and flourished through sea trade. America ultimately fought and won her independence on the very sea that sustained her. The government has therefore intervened in the maritime industry from the beginning, resulting in a long and complex history. The following events highlight the legal, fiscal and national security concerns about maritime trade and lead to the legislation and policies that influenced the creation of VISA.

A. PRIOR TO WWI

Only thirteen years after gaining independence, the first Continental Congress convened and passed one of the first Acts to affect maritime trade. Desperate for funding to support the new nation, they passed the Tariff Act of 1789. This act generated funds by assessing a fee on both imports and exports. By reducing the tariff against goods shipped on U.S. flagged and U.S. owned vessels, it stimulated growth in America's merchant fleet. This act was not a direct subsidy, but offered incentives to foreign owners of U.S. flagged ships and to owners of ships built in America. The resulting increased business in the shipping trade brought the desired increase in revenue to the young government.

Many bills were presented before Congress over the ensuing years, but the next significant Act was the Cabotage Act of 1817. The purpose of the Cabotage Act was to preserve shipping routes between ports in the U.S. This protection ensured carriers had guaranteed business along these routes, and subsequently a minimum number of ships would be preserved. This act, Public Law 33, is still in effect today.

The 29th Congress then passed an act in 1845 similar to today's incentive programs. This act authorized the Postmaster General to grant mail-carrying contracts to liners carrying U.S. mail on steamships that could be converted to warships if the need arose. The Mail Steamship Bill of 1845 also called for regular steamship routes between U.S. ports. It later expanded to overseas ports and encouraged the expansion of U.S. trade. One of the most prestigious Acts, and eventually the most profitable, called for a

regular steamship line to be established between New York and the Pacific coast, covering Oregon and later California. Mail contracts under the Mail Steamship Bill were also used to establish American steamship lines to Cuba, Panama, Liverpool and other major European ports. The first act to openly provide funds to sustain the U. S. merchant fleet was the Subsidy Act of 1891, which expanded the mail contracts to high-speed ships. The underlying purpose was to expand trade and support a growing national defense strategy as America departed from her internal expansion and isolationist policies. This act created many new trade routes before expiring in 1923.

The Military Transportation Act of 1904 was the first of three major landmarks in maritime legislation that dealt with cargo preference for U.S. flagged ships.² Unlike the Cabotage Act, which was primarily concerned with cargo transported between U.S. ports, or the Mail Act, which was a diplomatic means to expand U.S. trade, this Act specified that Army and Navy supplies must be born on U.S. flagged vessels, when transporting goods to overseas military bases. The precedent was now set for the military using private shipping through government covenants.

B. WWI TO WWII

In 1914, the outbreak of World War I in Europe witnessed the withdrawal of foreign ships for exporting cargo from U.S. ports. The inventory of ships in the U. S. merchant fleet had fallen drastically, with only 116 vessels as of June 30th, 1914.³ As Great Britain requisitioned her merchant ships to meet the demands of World War I, American cotton rotted on the docks, despite a 1,000 percent increase in shipping rates. To ease the crisis, Congress enacted emergency legislation in 1914 to permit foreign-flag ships to be registered under the U.S. flag for operation in foreign trade.⁴

The Shipping Act of 1916 was a significant landmark in Maritime industry. It created the Shipping Board of five commissioners to oversee the industry, and attempted to revive the U.S. shipping industry by legislating the acquisition of new ships and specifying that ships could not be “bought or chartered from any nation at war.”⁵

² Heine, I.M., U.S. Maritime Industry in the National Interest, p. 4.

³ <http://www.usmm.org/ships1914.html>.

⁴ http://www.navyleague.org/seapower/us_flag_merchant_marine_a_century_in_review.htm.

⁵ Ibid, p. 6.

Collaboration between shipping lines was authorized, but not for the purposes of fixing shipping rates. The Act also included guidance on selling or disposing of ships to U.S. citizens. The 1916 explosion in shipbuilding, intended to support the war effort, resulted in 1429 keels being laid down, but only 470 ships being delivered by the war's end.⁶

After the war, the resulting over-capacity had to be dealt with. After the troops returned home and maritime commerce returned to normal, America sought to dispose of its government owned fleet. Though provisions for selling ships to U.S. citizens were provided for under the 1916 Act, eliminating the glut of post-war government owned ships was a slow process. Congress stepped in again and passed the Merchant Marine Act of 1920. In addition to providing for sales of the fleet, it also recognized the need to preserve some part of it for a merchant fleet:

That it is necessary for the national defense and the proper growth of the foreign and domestic commerce that the United States shall have a merchant marine of the best equipped and most suitable types of vessels sufficient to carry the greater portion of its commerce and serve as a naval or military auxiliary in time of war or national emergency, ultimately to be owned and operated privately by citizens of the United States.⁷

Also known as the Jones Act, this law is most often cited for its efforts to preserve a militarily useful fleet, rather than for disposing of WWI vessels. The Act also enhanced Cabotage laws and protected American seamen's jobs.

Even with the passage of the two previous acts, sales of surplus ships were sluggish. Congress again tried to create an economic balance while sustaining a merchant fleet through the Merchant Marine Act of 1928. This act was intended to stimulate private industry by expanding construction loans, requiring government officials to travel on U.S. ships and directing that mail contracts be granted based on a bidding basis, with the lowest bid being selected.

Franklin D. Roosevelt was elected in 1932, in the middle of the Great Depression. One year later found a juxtaposition between domestic and international shipping within the U.S. merchant fleet. While nearly 57% of the ships intended for international trade

⁶ De La Prejada, Rene, "Rise and Decline of U.S. Merchant Shipping in the Twentieth Century", Twayne Publishers, p. 6.

⁷ Merchant Marine Act of 1920.

were laid up due to lack of work, domestic shipping was bustling due to Cabotage practices and cheap surplus ships. The highly competitive market among coastwise shippers resulted in unstructured rates and cost cutting practices. However, the U.S. ships were no match for the more modern ships operated less expensively by foreign fleets. Before the advent of the New Deal, the mail contracts were seen as exorbitant government spending on a select few. The Special Committee To Investigate Air Mail and Ocean Mail Contracts began on February 25, 1933 and culminated on June 18 of that year. The Committee emphasized the inefficiency and waste occurring under the guise of the mail contracts. After reviewing the results of this and other investigations conducted on the shipping trade, President Franklin D. Roosevelt asked for some significant changes in a 1936 address to Congress. He wanted a U.S. merchant fleet that could compete with foreign shipping firms without disguised subsidies, be strong enough to continue foreign trade in event of a war, and provide ships to the Navy in wartime.

The 72nd Congress drafted the 1936 Merchant Marine Act to accomplish these objectives. In addition, the Act created the Maritime Commission to manage the merchant fleet, provided direct subsidies to offset the construction and manning cost differences between the U.S. and foreign shippers, authorized the government to build ships for foreign trade routes, provided loans, ship mortgage and war risk insurance, and authorized a training program for merchant seamen. Unaware that World War II was looming on the horizon, the commission set out to modernize shipyards and to begin building ships that could be competitive with their European counterparts at the rate of 50 ships per year. Between 1939 and 1946, 4,976 commercial ships were built. This effort was critical to support the war effort in both Europe and the Pacific, and moved over 7 million passengers and 260 million tons of dry and liquid cargo between 1941 and 1945.

C. THE COLD WAR TO THE PERSIAN GULF WAR

Prior to the end of World War II, government planners recognized a situation similar to that prevailing at the end of World War I, and prepared for the orderly draw down of the government owned fleet. The Merchant Ship Sales Act of 1946 preserved a National Defense Reserve Fleet, and provided for selling surplus ships at fixed prices to both U.S. and non-U.S. citizens. Not only did this refine America's policies regarding national and international shipping, but also provided replacement ships to allied nations

that lost part of their merchant fleet during the war. Rebuilding Europe in the years after the war resulted in economic growth for the U.S. and remained strong for several years.

However, following the end of the Korean conflict, low priced foreign competition once again forced the U.S. fleet from the market. An estimated 43% of privately owned American flagged ships were left un-utilized by the middle of 1954. Congress turned their focus back onto to the merchant fleet and passed two cargo preference acts. The Agricultural Trade Development and Assistance Act is generally concerned with the overseas shipment of agricultural products. This Act, also known as Public Law 480 or “Food for Peace” had four goals: 1) to develop new markets, 2) dispose of surplus agriculture products, 3) encourage development in less developed countries and 4) provide emergency supplies to aid in disaster relief.⁸ Government purchases and shipping of these commodities not only raised the domestic prices of these goods, but also ensured business for the U.S. Merchant fleet. But Title III (a) of this Act (Public Law 480) allows for bartering surplus commodities for U.S. stockpiling of strategic goods. This was intended to create a foothold in (European) foreign nations during the Cold War.

The Cargo Preference Act of 1954 (Public Law 664) governs Cabotage in relation to government-generated cargo. The huge postwar aid programs for Europe’s recovery specified that U.S. ships be allocated “at least 50 percent” of the new cargoes generated by the government-sponsored programs. Those cargoes kept the American fleet busy in the immediate postwar period, but tended to blind the industry to the need to modernize to compete with the newer and much more efficient foreign-flag fleets.⁹

In 1967, the Department of Defense recognized a need for sealift augmentation for contingencies that amounted to less than full-scale war. Private industry, represented by the Committee of American Steamship Lines, proposed a program, including pre-negotiated activation procedures, that would provide commercially owned and operated sealift resources to the Department of Defense. This program was originally titled the Commercial Sealift Augmentation Program (CSAP). Beginning with its July 1969

⁸ <http://www.heritage.org/mandate/budget/pdf/150/151p1480.pdf>.

⁹ http://www.navyleague.org/seapower/us_flag_merchant_marine_a_century_in_review.htm.

contract solicitation for ocean services, the Military Sealift Command required that ocean carriers had to commit ships to the CSAP to be eligible for a contract award. At the time, the requirement did not specify a particular number or percentage of ships. That requirement was established in 1971, when a criterion for eligibility in the program was set at committing 50 percent of fleet assets. The program was renamed the Sealift Readiness Program (SRP) at the same time. Seven years later, the Maritime Appropriations Act directed

that all vessels receiving either a federal construction or operating subsidy must be enrolled in the Sealift Readiness Program (SRP), whether or not they received Department of Defense peacetime business. Any call-up of ships under the SRP would be initiated by both the Commander, Military Sealift Command, who would determine if additional sealift would be required, and the Maritime Administration, which would assess the impact of the call-up on commercial trade.¹⁰

The Goldwater-Nichols Act of 1986 changed the Department of Defense forever. Requiring better business practices in the Department of Defense, this Act created the United States Transportation Command, USTRANSCOM in October of 1987. This new, unified CINC was given the authority to bring the different component transportation capabilities under one command and to provide a single point of coordination for the war fighting CINCs.

D. THE PERSIAN GULF WAR

The SRP was in place and had 132 ships enrolled during Operation Desert Shield/Desert Storm, but was never exercised. Though intended for just such an event (less than full scale mobilization), activation of SRP was contingent upon the *unavailability* of shipping. Unavailable was defined as: 1) at either fair and reasonable prices, or 2) in insufficient quantities and the Ready Reserve Fleet could not be deployed in sufficient quantity or time to meet sealift requirements. Prior to activation, MARAD would be required to draft an economic impact statement on private industry. Due to the availability of charter ships, many of them foreign flagged, an ad hoc agreement was quickly drafted to secure sufficient shipping for the Gulf war. The Special Middle East Shipping Agreement, SMSEA, gave MSC access to considerably more Roll-On/Roll-Off and break bulk ships than did the SRP. SMSEA was used to move over 37,000 forty-foot

¹⁰ Ibid.

containers of material to the gulf in support of Desert Shield and Desert Storm. As expected, this hastily patched together agreement disrupted private industry and resulted in higher costs to the government than might have otherwise been negotiated.

Upon the successful conclusion of Desert Storm, military planners from USTRANSCOM were tasked with revising the SRP. With the new role of the U.S. military driven home by the events of Aug 90 - Dec 90, it was evident that the Cold war model was outdated and the global environment was shifting toward smaller-scale conflicts in remote locations not previously considered by defense planners. The new role would be one of rapid deployment from U.S. shores, as opposed to forward deployed forces with a logistics infrastructure in place immediately behind them.

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III. A HISTORY OF VISA

A. INTRODUCTION

A 1978 command post exercise named Nifty Nugget brought to light the limited understanding and cooperation between DOD and private industry regarding “mobilization.” Despite the continuing Cold War, inter-service rivalry left little room for cooperation within DOD, let alone with industry. Attitudes were forced to change when the Goldwater-Nichols Act was passed eight years later. This 1986 Act compelled the different military service branches to pare down redundant operations. President Reagan established USTRANSCOM on 18 April 1987, which created a new, unified command. This effort required repealing Public Law 77-252 that specifically prohibited consolidating functions of military transportation commands.¹¹

1. United States Transportation Command

USTRANSCOM was created while the Cold War was winding down, and began operations in a changing global environment. Without a stable opponent, DOD was tasked with defining its role and justifying its purpose in a new environment that seemed to have significantly reduced threats to U.S. security. USTRANSCOM had to develop its mission to support the CINCs. Although a unified command with a four star CINC at its head, USTRANSCOM oversaw the transportation capabilities of the various components, but still did not have the power it needed to do the task it was created to accomplish. Each of the Service branches--Air Force, Army and Navy--retained their charter for their respective modes of transportation, air, land and sea. USTRANSCOM's authority was limited to wartime, and, as a result, numerous interagency battles occurred over the transportation issues.

a. Air Mobility Command (AMC)

The Air Mobility Command is responsible for common-user air transportation for the Department of Defense. AMC has utilized the Civil Reserve Air Fleet (CRAF) since 1950 to provide surge capacity during force deployments. This program is an agreement with commercial carriers to provide certain aircraft, designated by tail number, to move personnel and equipment. An agreement, not a contract, this

¹¹ Matthews, J. K., and Holt, C. J., “So Many, So Much, So far, So Fast,” USTRANSCOM, 1996.

program offers carriers preference for DOD business in peacetime as an incentive for participating. AMC oversees the program to ensure DOD business is offered based on CRAF commitment. This program heavily influenced the initial phases of development of the VISA program.

b. Military Traffic Management Command (MTMC)

The Military Transportation Management Command is responsible for overland transportation and common user seaport operations. Their responsibility to oversee port operations is directly affected by VISA's ability to contract for all phases of material movement, due to the intermodal capabilities enjoyed by commercial lines. Because some military equipment has specialized transport requirements, MTMC will not be undone by VISA, but will have a reduced role in moving "like-material" that shipping lines already handle. Hazardous materials and ammunition are some of the materials that still require MTMC specific transportation capabilities.

c. Military Sealift Command (MSC)

The Military Sealift Command is responsible for the organic capability to move DOD material by sealift. According to the MSC web site, the "Military Sealift Command is to provide ocean transportation of equipment, fuel, supplies and ammunition to sustain U.S. forces worldwide during peacetime and in war for as long as operational requirements dictate. During a war, more than 95 percent of all the equipment and supplies needed to sustain the U.S. military are carried by sea."¹² The claim that 95% of all material is carried by sea may be statistically accurate, but only a limited amount is provided by organic capabilities, with the bulk of material being moved by commercial means. Under VISA, MSC would no longer be the single point of contact for identifying commercial ships (though MSC would remain in charge of non-VISA ships and any foreign flag charters, and act as contracting officer for ships chartered for Department of Defense under the VISA program).

2. The Marine Administration (MARAD)

Established subsequent to the Merchant Marine act of 1936, the Maritime Administration was created under the Department of Commerce and was transferred to

¹² <http://www.msc.navy.mil/N00p/mission.htm>.

the Department of Transportation in 1982. A government agency, but not a defense agency, MARAD's mission is:

to promote the development and maintenance of an adequate, well-balanced United States merchant marine, sufficient to carry the Nation's domestic waterborne commerce and a substantial portion of its waterborne foreign commerce, and capable of serving as a naval and military auxiliary in time of war or national emergency.

MARAD also seeks to ensure that the United States enjoys adequate shipbuilding and repair services, efficient ports, effective intermodal water and land transportation systems, and reserve shipping capacity in time of national emergency.¹³

Responsible for about \$475 million annually in subsidies to the U.S. merchant fleet, MARAD has a keen interest in any changes to DOD's sealift requirements concerning mobilization. These subsidies are to sustain and encourage a privately owned U.S. flagged and crewed merchant fleet¹⁴ and shipbuilding capabilities. The shrinking global market place offers savings opportunities that could put MARAD and DOD at odds over the costs of moving military material.

3. Carriers

The number and names of the commercial carriers fluctuate each year because VISA is a voluntary program. The initial enrollment of 22 carriers has stayed relatively consistent, averaging 23 commercial lines between 1997 and 1999. No records were available for the number of carriers represented in the VISA working group meetings.

B. A HISTORY OF VISA

The concept for VISA came from a draft prepared in 1991 by MARAD, which first used the VISA title. Almost simultaneously, the VISA draft made its way through USTRANSCOM, and the Logistics Management Institute (LMI) published a report citing DOD's need to revise its sealift capabilities. The LMI report stated "that the method the Military Sealift Command used to procure commercial sealift services (direct competitive bidding) precluded effective military/industry contingency planning, a key ingredient for a sound sealift augmentation program."¹⁵ Prepared for the Office of the Secretary of

¹³ <http://www.marad.dot.gov/Offices/mission.html>.

¹⁴ Refer to Appendix A for total U.S. Merchant Fleet Figures.

¹⁵ TCRC Archives - ESHER Chronology.

Defense, the report was then passed down to USTRANSCOM. MSC rebutted the LMI report, claiming that it contained “numerous inaccuracies, conflicting statements, and unsubstantiated conclusions, and should not be used as the sole basis for changes to Department of Defense (DOD) transportation policy.”¹⁶

The conflict of interest between MSC, MARAD and USTRANSCOM was evident. An oral history from the USTRANSCOM Research Center Archives explained USTRANSCOM’s involvement in the resolution of the conflict between DOD representatives and industry:

we didn’t get into VISA because we had this great vision of VISA. We got into VISA because of the trouble our component (MSC) and our suppliers were having in communicating with each other. So the VISA initiative was as much to open a dialogue and smooth the waters as it was to try and establish a [CRAF] like program for sealift.¹⁷

Subsequently, USTRANCOM was formally tasked by the Joint Staff and the Office of the Secretary of Defense and the Navy to review the SRP and sealift procurement process.

In 1993, USTRANSCOM hosted a conference of Chief Executive Officers from the maritime industry. In order to get carrier participation in the process, MSC was not invited. USTRANSCOM representatives presented the concept of a sealift readiness program comparable to the Civil Reserve Air Fleet (CRAF). CRAF had been in place since 1952, and was successfully executed during the Gulf War. Unlike the Sealift Programs, aircraft participating in CRAF were specifically committed to the program, and policies for activation had been refined over 40 years of negotiations between military air transporters and industry. CRAF was cited as a successful marriage between DOD transportation needs and private industry capabilities that could be used in various stages of declared emergencies, from low intensity conflicts through war. During Desert Storm/Desert Shield, CRAF carriers transported over 70,000 personnel and 35,000 short tons of cargo between August of 1990 and February of 1991. Later that year, USTRANSCOM directed the MSC commander to initiate a study to improve the SRP,

¹⁶ Ibid.

¹⁷ TCRC Archives -Oral History.

but was privately leaning toward a program that was organized along the CRAF framework.

The beginning of 1994 saw a number of meetings and exchanges within USTRANSCOM, and between the CINCs and MARAD. Heading up the overall process to improve sealift, USTRANSCOM received ongoing reports from various working groups to evaluate sealift readiness: the Sealift Readiness Improvement Study conducted by MSC, and three internal working groups; a Requirements Planning Group, a Readiness Group, and a Transportation Acquisition Process Group. MSC attempted to maintain their independence from the VISA position, proposing a “new” program tentatively titled “Joint Planning Agreement” (JPA). As an alternative to VISA, JPA would focus on joint planning, mimicking the policies MSC used to provide peacetime sealift. MSC offered to refine current SRP procurement policies and procedures to combine with the JPA, creating a comprehensive sealift readiness program. But USTRANSCOM was convinced that the VISA proposal could “support most Department of Defense mobilization objectives; and once a mutually agreeable joint planning arrangement had solidified, the readiness aspects of VISA should be worked out”.¹⁸ MSC made one last attempt to preserve their position by recommending portions of VISA be incorporated into the JPA and that the result should be ancillary to SRP.

In August of 1994, the head of the Department of Justice, Attorney General Janet Reno, formally approved the draft text of the Voluntary Intermodal Sealift Agreement, and MARAD published it in the Federal Register. But at USTRANSCOM, the members of the Executive Working Group were at odds, and

senior leadership at all levels of the United States Transportation Command, the Maritime Administration, NDTA, and industry had to get personally involved in order to overcome the problems blocking further development of a program to replace the Sealift Readiness Program.¹⁹

Issues regarding the rate methodology of a CRAF-like program were questioned. A team from Military Sealift Command (MSC), Price Waterhouse, and the Department of Transportation’s Volpe Center identified the different rate structures used by ocean

¹⁸ Ibid.

¹⁹ TCRC Archives - ESHER Chronology.

carriers and cited that they could not be condensed into a one-size-fits-all rate for a single carrier, let alone for a common rate to be used with all carriers. Ocean carriers, operated uniquely in a common environment, and calculated costs differently on different routes.

The year 1995 was spent refining the VISA program. Concerns over the subsidies currently sustaining the diminishing U.S. flagged fleet were addressed. It wasn't until a year later, in 1996, that the Maritime Security Act was passed by Congress and signed into law by President Clinton. One of the tenets of this act was the 100 million dollar Maritime Security Program (MSP), which came to sustain 47 ships in the U.S. merchant fleet. Carriers that received MSP funds were required to join VISA, but foreign flag vessels could be substituted for subsidized vessels during contingencies. Operating differential subsidies that also sustained the U.S. merchant fleet would be phased out in 1996. The anticipated changes on the structure of the U.S. merchant fleet raised apprehension among Navy leadership. They were concerned that control over the U.S. flagged fleet was being reduced due to foreign purchases of U.S. vessels, and that the subsidies needed to sustain VISA would become a bill for the Department of the Navy or Department of Transportation to pay.

Specific wording regarding VISA activation authority was drafted. Like CRAF, three activation stages were developed to address increasing levels of contingencies to which the military might respond. But unlike airlift, which is intense during the early stages of a conflict and then decreases, sealift support is a sustaining logistics resource that could cause long-term disruption to the maritime industry. VISA activation authority was an issue not only for MARAD and DOD, but was raised to the office of the National Security Advisor.

USTRANSCOM DCINC observed the beginnings of conflict resolution between the members responsible for making VISA a reality. Army Lieutenant General Kenneth R. Wykle noted “that MSC staff wanted to obligate the contractor to provide assured access to the government, but that they also wanted “the government to be free to go on the open market at anytime to get the lowest tramp steamer or rogue ship that might be out there.”²⁰ LTG Wykle underscored USTRANSCOM's position that if the

²⁰ Ibid.

“government expected the carrier to sign up then the carriers must have assured access to government business. However, if the carriers could not meet Department of Defense requirements, USTRANSCOM would then have the flexibility to go to the open market.”²¹ General Wykle also observed that Navy Vice Admiral Phillip M. Quast, Commander, MSC, “appeared increasingly flexible about changing the way MSC did business, but his civilian staff still seemed reluctant to change their past procedures.”²²

A war game was designed and played out to test VISA’s activation and execution. The results were generally positive and proved the value of the Joint Planning Advisory Group (JPAG) concept. JPAG included members from MARAD, USTRANSCOM, labor, and program participant operators on a team to execute the various stages of VISA. Negotiations between MARAD and DOD after the war game, transferred activation authority for Stages I and II to USTRANSCOM, but kept Stage III authority with MARAD and the Department of Transportation. USTRANSCOM, citing CRAF procedures as a template, wanted activation authority for all three stages. Because Stage III is full-scale mobilization, it was supportable regardless of activation authority.

In October, the Chairman of the Joint Chiefs approved USTRANSCOM’s request to allow VISA to fulfill the carrier’s previous commitment to SRP. This request covered a one-year implementation period that would also be used to run field tests in the Pacific to assess the two proposed rate structures. One month later, twenty-two carriers signed up for the VISA prototype.

During 1996, debates continued over carrier compensation. Two methods were being reviewed, a Uniform Commercial Rate (UCR), based upon a single rate applicable in peace and war, and a Best Value Rate (BVR) model, which was based on competitive pricing. The UCR was similar to the methodology used by CRAF and was preferred due to its simplicity. But ocean transport was significantly different from air transport and BVR was developed as an alternative. These two rates would be evaluated in side by side testing in the Pacific theater over a one-year period.

²¹ Ibid.

²² Ibid.

Another war game was held in 1996, this time testing VISA's capabilities to respond to two nearly simultaneous regional conflicts. VISA's structure and procedures were viable for most of the material needed by deployed troops, but ammunition transportation was difficult due to special requirements for handling, storing, and shipping. After the war game was finished, letters were exchanged between MARAD and USTRANSCOM to explain the approval/activation authority for Stage III.

More debates raged over the contracting methods and rate negotiation during 1996. Ocean carrier rates were based upon a number of different factors. With the decline in U.S. shipping of nearly 33 percent since 1988, and the rise in competition from foreign nations, U.S. carriers based their rates on the following concepts:

- Type of cargo - whether material can be containerized
- Type of container - 20', 40' or refrigerated
- The routes - longer routes result in greater energy costs
- The ports - material being shipped to different ports; customs, foreign port capabilities impact off-load, and also affects overland transportation in intermodal contracts.
- Competition - highly desirable routes experience heavy competition between carriers, hence lower costs; less desirable routes incur higher costs
- Rebates - customers that shipped large quantities are often eligible for rebates.

Taking these into consideration, executing a contract with a VISA participant in peacetime, regardless of cargo preference laws, could result in the government paying a U.S. carrier more money to transport goods to a foreign port, than to contract for a foreign carrier to transport the same goods under an open contract.

USTRANSCOM had to reinforce the position that VISA was an agreement between industry and the Department of Transportation. As a program in which carriers enrolled voluntarily, unless they were receiving MSP subsidies, VISA would set a framework for pre-negotiated access to commercial sealift capabilities. Because it was pre-arranged, DOD could be assured of fair and reasonable costs if executed. By December of 1996, the final version of VISA was published by MARAD and USTRANSCOM.

The Secretary of Defense gave final approval for replacing SRP with VISA in January of 1997. In February, MARAD announced VISA's implementation in the Federal Register. A Rate Methodology Working Group continued to discuss Stage III activation compensation. Because Stage III required carriers to forfeit 100 percent of the carrying capacity of their subsidized ships under a full-scale mobilization, compensation had to be not less than the commercial rate for transportation of like goods, and needed to take into account possible loss of income by disrupting a carrier's commercial business. Stage I and II were designed for less than full scale mobilization and would require roughly 15 to 40 percent of a carrier's capacity, respectively. Because the number of ships and capacity can change each year, based on enrollment in the program, MARAD is constrained to recalculate shipping capacity and percentage needed. And as Stage I and II are considered Peacetime activation, the BVR and UCR had to be evaluated as to which would provide the best option for both government and industry.

Ongoing tests of BVR and UCR rates were being conducted in the Pacific using American President Lines and Sea-Land for the trials. In addition to evaluating the rate structure, four other areas of the carrier's performance were to be assessed prior to making a report to the Secretary of Defense. TRANSCOM was to review Service Improvement, Cost Assessment, Readiness, and Streamlined Acquisition. The final rate methodology recommendation included two possible rates: unit and per diem. The unit rate applied to individual cargo shipments, while the per diem rate applied to vessel time charters. There were three types of unit rates: container, measurement ton, and square foot. Rates were specific to both carrier and vessel string. An independent firm, Law and Economic Consulting Group (LECG), concluded that the carriers' reticence in releasing proprietary information, "severely impaired DOD's ability to negotiate fair and reasonable rates."²³ The UCR was then redesigned to allow the carriers to choose one of three options.

A Universal Service Contract was to be incorporated along side VISA to serve as a bridge between "current DOD peacetime commercial ocean and intermodal transportation services contracting practices and OSD determined acquisition policies."²⁴

²³ Ibid.

²⁴ Ibid.

The contract would be implemented in two phases, USC1, tested from Feb to Sep 1998, and USC2, implemented in Oct of 1998. The contract would also incorporate service contract standards to meet customer requirements currently designed to customer needs in specific service contracts. Furthermore, USC1 would reflect executed Voluntary Enrollment Contracts (VEC) for VISA Stages I, II, and III to include basic activation procedures; DOD annual minimums for VISA Stages I, II, and III commitments (to include vessel capacity and intermodal systems); Stage III rate methodology; peacetime cargo allocation provisions; and on-the-shelf basic agreements (such as VISA Intermodal Contingency Contracts (VICC) for Stages I, II, and III). The anticipated February 1, 1998 implementation was critical because it provided an eight-month bridge between when the old contracts expired and the full VISA contract (USC2) would be awarded, in October 1998. This allowed sufficient time to align the old contracts that expired into a single new contract for the customers.

In September 1997, a Concept of Operations (CONOPS) plan was developed for VISA to determine the specific sealift capacity required to support two major theatre conflicts. These CONOPS plans addressed all three stages of VISA and provided the framework JPAG would use in responding to a contingency. Planners chose Korea and Southwest Asia to develop these CONOPS. Choice of these regions reflect more accurately the current global threat than one derived from the Cold War.

In early 1998, MTMC was working several VISA issues, specifically antitrust concerns, rate methodology to address port-to-port movement outside the continental U.S., and container pricing based on type, size and direction (of the containers). Contracting officers needed access to corporate information regarding carrier and expense data to offer fair and reasonable offers, but some carriers were unwilling to provide the data. MTMC then had to create another pricing methodology for those uncooperative carriers. MTMC later resolved to use current protocol in requesting sensitive data, and was more successful.

By this time, the UCR and BVR both proved limited in their ability to enhance the acquisition process (for ocean and intermodal capabilities). The preferred approach was

a “competitive, best value acquisition strategy”²⁵ that would establish readiness, service, price, and past performance as award criteria. Readiness would be achieved through the mandatory participation of certain carriers, and their pre-established minimum commitments to Stages I and II of VISA. Contingency requirements (Stage III) would be contained in a separate contract that would be a prerequisite to obtaining peacetime business. New rates developed for individual carriers, based on that company’s unique market experience, complied with the Maritime Security Act and created realistic compensation for carriers participating in VISA. This reflected the consolidated capabilities modern day carriers used to integrate maritime shipping with trucking lines, port facilities and material handling equipment. This intermodal capability could be tapped into by USTRANSCOM, eliminating separate agreements for those facilities.

In June 1998, carriers enrolled in VISA were asked to select a rate methodology from three approved options:

- Method A: Revenue Based - an averaged rate calculated over a period of time
- Method B: Peacetime Rate Based - guaranteed a minimum profit level
- Method C: Negotiated Contingency Based - the carrier to negotiate all rates and expense deductions with the contracting officer

The balance of 1998 was spent refining the rates necessary to provide the needed incentive for carriers to join VISA. Incentives were those fees paid to the carriers carrying material during peacetime. On two different occasions, the carriers hired third parties to provide independent rate analysis. A chronology prepared by the USTRANSCOM Research Center archives outlines the results of the two studies:²⁶

McKenna & Cuneo, LLP: After the Government had initially proposed a 15% incentive rate for Stage I and 10% for Stage II, the carriers presented the results of McKenna & Cuneo’s report, “Incentive and Compensation Package Analysis,” to USTRANSCOM. This initial analysis proposed a 400% incentive for both VISA Stages I and II, but did not appear to have a quantitative basis.

A.T.Kearney: After USTRANSCOM decided to limit incentives to no more than 30 percent, the carriers contracted with A.T. Kearney to provide

²⁵ Ibid.

²⁶ TCRC Archives -ESHER Chronology.

an objective analysis of fair and reasonable incentive payments for Stages I and II of VISA activation. Kearney's risk-based model addressed the significant business and financial risks faced by the carriers to include service disruption; customer response and disruption of global customer relationships; range of potential military scenarios; and lost business opportunity. The model was designed to identify the incentive rate that would make the carriers indifferent to joining Stages I and II (much as if they were to make an investment decision) and included a Monte Carlo simulation to examine the probability that specific sets of assumptions would occur. The model determined that the average VISA contingency price premium would be 411 percent. Kearney maintained that the DOD Revenue Analysis Model significantly understated business risk by focusing only on a single military scenario; confining service disruption to only the single route in question; failing to cover lost business opportunities, and assuming that customers would not perceive increasing risk of service disruption prior to the military emergency.

In September 1998, a DOD analysis team, chartered by TRANSCOM, was assigned to evaluate the carriers' presentation on proposed incentives using factual data and historical documentation. By replacing the assumptions of the A.T. Kearney model with "more appropriate" assumptions, the analysis found industry's expectations of 400 percent incentives to be unrealistic. However, USTRANSCOM did feel incentives up to 40 percent could be supported. This 40 percent is added to an estimated 30 percent rate based methodology resulting in additional compensation of up to 70 percent of their peacetime costs for moving like material. This incentive is intended to offset the business risks and extra expenses incurred by the carrier for committing to VISA.

In late 1998, two carriers were involved in industry events relating to VISA. Sea-Land obtained an amendment to the Shipping Act of 1984

authorizing a US flag vessel operator, in a vessel sharing agreement with a foreign flag operator, to prohibit the foreign flag operator from the carriage of preference cargo in US flag space. Essentially, this amendment allowed US flag carriers to close off potential competition for military cargoes from foreign flag lines that leased space on US subsidized vessels.²⁷

Two months later, in January of 1999, Mr. Frank Halliwell, the CEO of Lykes Lines Ltd., sent a letter to USTRANSCOM stating that he could not

²⁷ Ibid.

commit his company to a contingency contract that threatens our commercial viability and gives credence to an emergency preparedness program that looks good on paper (at least to the military), but that cannot deliver the long-term contingency sealift capability that the military needs.²⁸

VISA was developed between 1991 and 1997. Over this period, changes in the global environment shaped the way America would conduct military operations in various levels of intensity. These environmental factors helped drive the changes in relationships between government and industry, becoming a more cooperative effort. Changes in the process by which sealift needs were assessed and contracted for redefined the roles of MARAD, MSC and USTRANSCOM in providing sealift capabilities to DOD, with VISA as the vehicle.

²⁸ Ibid.

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IV. ANALYSIS, CONCLUSIONS AND SUGGESTIONS FOR FURTHER STUDY

A. ANALYSIS

- **VISA was developed to ensure DOD can exploit commercial sealift capability when organic capabilities are insufficient**

Program incentives are revised annually, but the basic tenets remain in place. Activation, capacity required to commit and carrier risk clauses are all contained within the body of the VISA agreement between DOD, MARAD, and the maritime industry. The VISA Enrollment Contract (VEC) and the Voluntary Intermodal Sealift Rate Agreement (VISRA) were created to address the specific details for each carrier. Rates are determined upon enacting the program, and the carriers choose the rate methodology. As of 2001, the VISA program is in place but untested, as activation has never taken place.

- **This thesis was written to identify the events leading to the program's inception and development, but it also provides a glimpse into U.S. military history, the changing global environment, and the role VISA will play in the future.**

A review of the history of VISA brings to light several important topics. The military-industrial complex that dominated the postwar era expired soon after the fall of the Berlin Wall. Big government funding big industry to make war materials has now evolved to contracting for services that were once provided within the Department of Defense. Through MARAD, DOD renewed its relationship with the maritime industry, and VISA is the result of successful negotiations between the parties, but leaves open some areas that will only be answered by activating the program. We will discuss these areas before forming conclusions and making recommendations for further study.

- **The shift from a Bipolar world to a unipolar world requiring America to respond to inestimable numbers, locations and types of conflicts may tax VISA's sustainment capabilities**

The Cold War era demanded plans for two nearly simultaneous regional conflicts. But the fall of the Berlin Wall and the ideology that it represented calls for new plans. The U.S. military would be asked to plan for threats in an unstable world. The recent war on terrorism does not have a well-defined end state for the mission, and could easily

expand into multiple conflicts in diverse regions throughout the world. This escalation will become part of our history, but how large is yet to be seen. VISA has been developed to sustain military sealift transportation needs when organic and commercially contracted shipping becomes unavailable.

- **Use of foreign vessels and crews may compromise national security interests**

World War II saw America requisition foreign ships that were laid up in U.S. ports. Friendly governments cooperated with America, but some of the crews had different ideas and sabotaged their ships. America made at least one direct plea, to Danish sailors, to remain with their vessels because they were familiar with operating them. After WWII, American bases remained in Europe through the post-war rebuilding process. They remained to bolster the weakened European nations in the uncomfortable shadow cast by the United Soviet Socialist Republic. But the end of the Cold War reduced the need for large numbers of military members stationed overseas. The anticipated charge through the Fulda Gap by the USSR will never happen. U.S. troops are now engaged in rapid deployments from U.S. shores, to respond to smaller contingencies and operations other than war. The resulting loss of international relations with allies on the personal level may result in less empathy between us and our neighbors. This loss of understanding, combined with events of September 11 may drive lack of understanding into mistrust. VISA acknowledges our use of foreign flagged vessels, but will our neighbors be willing to let us use those vessels, and will the crews perform their jobs reliably and without malice in the future?²⁹

- **Practice makes perfect; war games can provide valuable training and assess VISA's ability to execute its mission**

During the 1996 war game, JPAG was successful at executing the different stages of VISA. The war games offered two nearly simultaneous regional conflicts in Southwest Asia and Korea. Industry representatives participating in the war games were also part of the history of the development of VISA, and had clear understanding of the government's needs. VISA responded well to in the war game, with the participants in place in 1996. There is no guarantee that future participants will have a similar history of working with the government and may not be so successful. War games exercising VISA should be

²⁹ Refer to Appendix D for complete listing of carriers enrolled in VISA.

conducted annually to ensure 1) adequate knowledge and training on the part of industry, and 2) assess the VISA participants' capabilities and limitations.

- **The ownership of vessels (and intermodal capabilities) enrolled in VISA needs to be re-defined to ensure national security needs are not compromised if Stage III of the program is activated**

During the 1996 war game, key members of JPAG included industry representatives who all met the security clearance levels necessary to work in concert with DOD. Since September 11th, security measures have tightened and are not likely to change in the immediate future. The U.S. needs to retain private ownership of significant sealift capacity in order to support military requirements during contingencies.

- **The VISA program is a fairly robust program that compensates carriers fairly and can be viewed as a successful compromise that shares risk proportionally between industry and DOD**

Ongoing rate discussions dominated much of VISA's development. Numerous factors are used in determining commercial cargo rates. DOT and DOD were constrained in developing a method to pre-negotiate rates for Stage I and II activation, and these constraints resulted in offering three options from which a carrier could choose. These rates take into account a carrier's desire to preserve privacy of internal cost mechanisms. While these rates are pre-negotiated, they are also governed by approved economic price adjustments, thereby mitigating risk to the carriers. Their risk is also lessened by minimum activation times (60 days). Reimbursable expenses include both war risk insurance and repositioning costs. Pooling between carriers to protect commercial trade and breach of contract protection are also provided.

- **MSP is intertwined with VISA and must continue to guarantee participation by U.S. owned sealift capability**

Unlike CRAF, which can guarantee a minimum level of business during peacetime, VISA only offers priority status for carriers in competing for peacetime business. A carrier voluntarily enrolled in VISA may not receive any benefits for maintaining a readiness commitment. (MSP ships are committed to VISA because they already receive a subsidy. Refer to Appendix C for complete list. When activated, though, carriers may receive up to 70 percent over peacetime rates and another 22 percent

over CONUS intermodal rates. Because voluntary participants only receive opportunities to bid, they are not “compensated” for participation in the program unless VISA is enacted.

- **Though VISA is frequently compared to CRAF, the entire system of operations between aviation and the maritime industry are fundamentally different**

Unlike aircraft that can be relocated anywhere in the world within 24 hours, ships take much longer to relocate and, depending upon the ports available, take longer to offload and prepare for DOD’s use. Rates for the two programs had to be established based on different methodologies as well. CRAF participants have little competition from DOD assets - flying people and cargo does not vary between peace and war; whereas MSC must retain some capabilities, such as underway replenishment, not found in the private sector. VISA requires intermodal capabilities by the carrier, but CRAF does not. DOD relieves the CRAF carrier of any forward movement of material, and assumes management once received at the airfield.

- **MARAD needs to provide sufficient oversight and incentives to ensure that there are sufficient vessels in the U.S. merchant fleet that balance both size and accessibility to overseas ports**

Even though the number of ships in the U.S. merchant fleet has decreased, these vessels have increased in size. Tonnage capacities are at or near the levels they were in 1988, when the U.S. fleet numbered 484 vessels, as opposed to today’s 226. Increased vessel size limits the number of on-load and off-load ports, resulting in overland transportation or using smaller vessels to move material.

- **Industry and government need to form a joint training opportunity to sustain a pool of merchant seamen**

Fewer vessels also means the number of trained, qualified personnel have dwindled, leaving the Ready Reserve Force at a loss should the RRF be activated. During Desert Storm, many merchant seamen were called upon to activate the Ready Reserve Fleet, but training was inadequate, resulting in shortages in some engineering fields and officer levels. Seamen today are unfamiliar with operating older engineering plants, leaving many of the older vessels that make up the RRF difficult if not impossible to activate. As the number of merchant seamen declines further, our ability to activate

the RRF may become problematic, requiring even greater reliance on existing commercial carriers.

B. CONCLUSIONS

The history of the VISA program highlights the government's efforts to work alongside industry to provide a capability in concert with private enterprise that could be utilized by DOD in times of conflict. Various acts and policies have all affected the development of VISA and its creation. To summarize, this paper the thesis questions are briefly answered:

- **What is the origin and current organization of the Voluntary Intermodal Sealift Agreement?**

VISA originated from the decision not to activate SRP during Desert Storm. After the Gulf War, MARAD conceived the VISA program and proposed it to USTRANSCOM. VISA is organized as a three stage program, executed in concert with industry carriers, that offers time phased transition from peacetime, through increasing levels of conflict, to answer joint sealift requirements of the Department of Defense. The program is jointly administered by USTRANSCOM and MARAD. Activation authority for Stages I and II is held by USTRANSCOM, activation for Stage III is held by Secretary of Defense. (Appendix D - Activation Diagram)

- **Are the changes in VISA's organization addressing the original intent of the agreement and does it currently meet that intent?**

Yes. VISA was established to provide sealift capability to the Department of Defense during contingencies. A limited number of ships are continuously available through their mandatory enrollment in the MSP. VISA also allows for substituting foreign flagged vessels for U.S. flagged vessels to support cargo preference laws.

- **How has technology been incorporated in VISA's operations?**

MSP ships enrolled in VISA are included in the Joint Operation, Planning and Execution System (JOPES). JOPES utilizes Time Phased Force Deployment Data (TPFDD) to identify vessels available and their capacity. Ships' characteristics, such as capacity, speed, draft, etc., are included for military planners to determine which ships are best suited for different types of material (containerized, vehicles, ammunition, etc.). Voluntary participants can provide ships' characteristics for subsequent profiling of that vessel. This information is stored in a database for later recall when needed.

- **How will VISA contribute to moving military material in the future?**

America's current administration is intent upon winning the war on terrorism, but has admitted it will not be a quick and easy conquest. Technically a military operation other than war (MOOTW), actions to neutralize or eliminate terrorism require plans that are far reaching in scope, including a sustained effort in forward deployed locations. These locations appear to frequently have low levels of technological sophistication and limited infrastructure that require forwarding material transported by sealift to the nearest port by intermodal systems. VISA is designed to meet this requirement, but can only prove itself through execution.

Events of September 11, 2001, demanded a military response from the United States. But troops deployed to Afghanistan as a result of the attacks have all moved by organic capabilities or contracted on the market through competitive bidding. OPERATION ENDURING FREEDOM has not required the activation of any stage of VISA as yet. However, if the War on Terror expands, potentially requiring military deployments to the Philippines, Somalia, Iraq and other nations harboring terrorists, the U.S. will find its national assets stretched, and the potential for reliance on VISA may increase.

C. RECOMMENDATIONS FOR FURTHER STUDY

- **A review of ships enrolled in MSP would provide clearer insight into the viability of their ownership**

Many foreign carriers have set up offices in the U.S. and are taking advantage of U.S. subsidies intended to sustain a U.S. owned fleet. The actual status of these foreign owned companies, which may be owned or subsidized by their own governments, may or may not be useable assets if VISA were activated.

- **Manning of the merchant fleet directly impacts the availability of the Ready Reserve Fleet**

A large number of seamen remain available from the draw down of the military in recent years, but will probably not be fully replenished by future generations. Not only numbers of available seamen, but skills necessary to activate older ships in the RRF are being lost, making the ability to activate those vessels questionable.

- **VISA should be reviewed on a regular basis to verify that it is capable of exploiting advances in technology, and to allow DOD to take**

advantage of any financial savings resulting from technological change in the maritime industry

Technology continues to evolve in both mechanisms for tracking material and shipbuilding construction. DOD was a leader in technology in the postwar era, but is now increasingly dependent upon private industry for research and development in both those areas.

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APPENDIX A. U.S. MERCHANT FLEET (US FLAGGED AND FOREIGN FLAGGED – MARAD 2000)

SHIP TYPE	QUANTITY
Containership	83
Dry Bulk	11
Passenger	1
Roll-On/Roll-off	26
Tankers	115
Other	24
Break-bulk ships	
Partial containerships	
Refrigerated cargo ships	
Barge carriers	
Specialized cargo ships	
Total vessels	260

U.S. GREAT LAKES FLEET

Bulk	57*
Tankers	4*
Other	
ITB Bulk carriers	7
Total vessels	68

* a mixture of active and temporarily inactive

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APPENDIX B. VISA ACTIVATION PRIORITY

PRIORITY	CATEGORY
1	U.S. Flag vessel capacity operated by a participant and U.S. Flag Vessel Sharing Agreement capacity of a participant
2	U.S. Flag vessel operated by a non-participant
3	Combination U.S./foreign flag vessel capacity operated by a participant and combination U.S./foreign flag VSA capacity of a participant
4	Combination U.S./foreign flag vessel capacity operated by a non-participant
5	U.S. owned or operated foreign flag vessel capacity and VSA capacity of a participant
6	U.S. owned or operated foreign flag vessel capacity and VSA capacity of a non-participant
7	Foreign owned or operated foreign flag vessel capacity of a non-participant

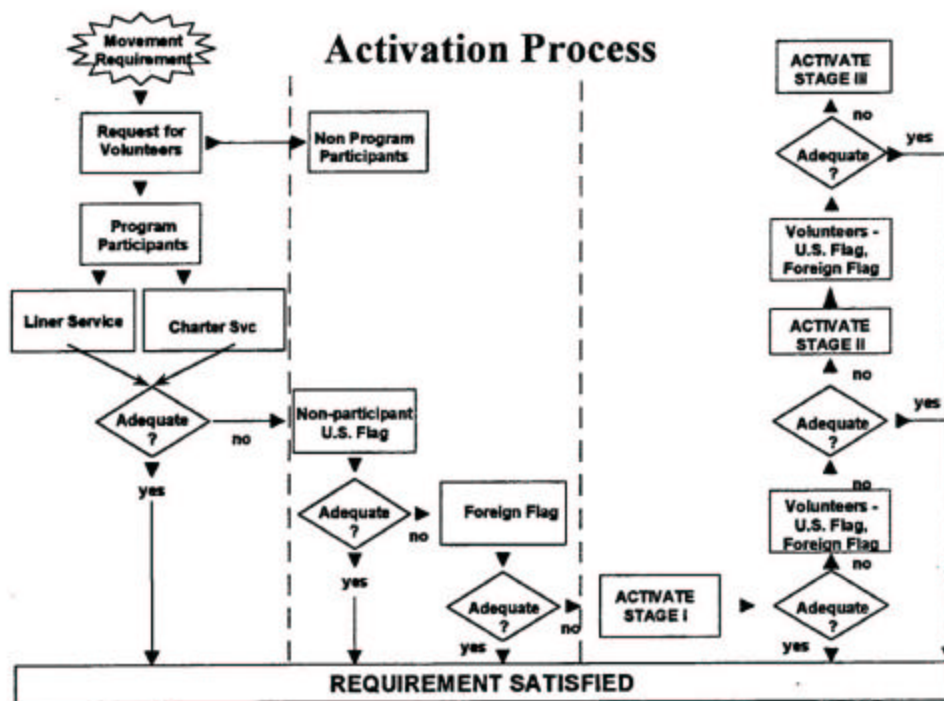
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APPENDIX C. VISA PARTICIPANTS, 1997, 1998, 1999, AND 2000

NAME	1997	1998	1999	2000
Alaska Cargo Transport, Inc.	X	X	X	X
American Auto Carriers	X	X		
American Automar, Inc.		X	X	X
American Overseas Marine	X			
American Presidents Line, Ltd.	X	X	X	X
American Roll-On Roll-Off			X	X
American Ship Management, Inc.		X	X	X
Automar International Car Carrier, Inc			X	X
Beyel Brothers, Inc.				X
Central Gulf Lines, Inc	X	X	X	X
Cook Inlet Marine				X
Crowley American Transport, Inc	X	X	X	X
Crowley Maritime Services, Inc.		X	X	X
CSX Lines, LLC.				X
Dixie Fuels II, Ltd.		X	X	X
Double Eagle Marine/Caribe USA, Inc.		X	X	X
Farrell Lines, Inc	X	X	X	X
First American Bulk Carrier, Corp.		X	X	X
First Ocean Bulk Carrier - I, LLC			X	X
First Ocean Bulk Carrier - II, LLC			X	X
First Ocean Bulk Carrier - III, LLC			X	X
Foss Maritime Company		X	X	X
E-Ships, Inc.				X
Gimrock Maritime, Inc.				X
Liberty Shipping Group Limited Partnership				X
Lynden Incorporated		X	X	X
Likes Brothers Steamship	X			
Lykes Lines Limited, LLC		X	X	X
Maersk Lines Limited	X	X	X	X
Matson Navigation Company, Inc.	X	X	X	X
Maybank Shipping Company, Inc.		X	X	X
McAllister Towing & Transportation		X	X	X
Moby Marine Corp.		X	X	X
NPR, Inc.		X	X	X
OSG Car Carriers, Inc.	X	X	X	X

NAME	1997	1998	1999	2000
Osprey Shipholding Corp., LLC.	X	X	X	X
Red River Shipping	X			
Resolve Towing & Salvage, Inc.		X	X	X
Samson Tug & Barge Company, Inc.				X
Seacor Marine International, Inc.		X	X	X
Sealift, Inc.	X	X	X	X
Sea-Land Service, Inc.	X	X	X	
Smith Maritime		X	X	X
Stevens Towing Co., Inc.				X
Strong Virginian Navigation	X			
Superior Marine Services, Inc.				X
Totem Ocean Trailer Express, Inc.	X	X	X	X
Trailer Bridge, Inc	X	X	X	X
Transatlantic lines, LLC.				X
Trico Marine Operators, Inc.		X	X	X
Troika International, Ltd.		X	X	X
Van Ommeran Shipping (USA) LLC	X	X	X	X
Waterman Steamship Corp.	X	X	X	X
Weeks Marine, Inc.		X	X	X

APPENDIX D. VISA ACTIVATION MATRIX



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APPENDIX E. VISA CHRONOLOGY

(Revised Draft)

by Mark R. Esher, CAPT, USNR

1967 After Secretary of Defense Robert S. McNamara recognized the need for some type of sealift augmentation during a less than full national emergency and that requisitioning was appropriate only for a full mobilization contingency, the Committee of American Steamship Lines proposed a program that would provide commercially owned and operated sealift resources to the Department of Defense (DOD) when needed, and according to prearranged procedures. DOD then formally established the Commercial Sealift Augmentation Program (CSAP). Beginning with its July 1969 contract solicitation for ocean services, the Military Sealift Command required that, to be eligible for an award, all ocean carriers had to commit ships to the CSAP. At the time, the requirement did not specify a particular number or percentage of ships.

1971 The Committee of American Steamship Lines was retitled as the Sealift Readiness Program, and the Military Sealift Command required ocean carriers to commit at least 50 percent of their US flag fleet as a condition of eligibility for the program.

1978 The Maritime Appropriations Act directed that all vessels receiving either a federal construction or operating subsidy must be enrolled in the Sealift Readiness Program (SRP), whether or not they received Department of Defense peacetime business. Any call-up of ships under the SRP would be initiated by the Commander, Military Sealift Command, who determined that additional sealift would be required, and the Maritime Administration, which would assess the impact of the call-up on commercial trade.

1981 The Secretary of Defense and Secretary of Commerce signed a Memorandum of Agreement establishing civil shipping support for military contingency operations and the Sealift Readiness Program. The Maritime Administration was subsequently transferred from the Department of Commerce to the Department of Transportation in 1982.

1990 Although as many as 132 ships were committed to the Sealift Readiness Program (SRP), Military Sealift Command (MSC) did not call up any SRP ships in support of Operation Desert Shield or Desert Storm because of the general availability of charter ships--particularly from foreign sources--and space on US commercial vessels. In fact, the charters gave MSC access to considerably more Roll-On/Roll-Off and breakbulk ships than did the SRP. However, the question for later consideration would be whether such vessels would be so accessible in the future under different political or market conditions. (See 1992 LMI Study)

09 Dec 91 The United States Transportation Command (USTRANSCOM) circulated an advance copy of a Maritime Administration (MARAD) draft proposal of a voluntary

agreement to make intermodal shipping services and equipment available to the Department of Defense as required to support the emergency deployment and sustainment of US forces. This initial draft working copy, entitled “Voluntary Intermodal Sealift Agreement” (VISA), was the first use of the VISA title identified to date. The memo also suggested the creation of a working group composed of USTRANSCOM, the Navy (N4-Logistics), Military Sealift Command (MSC), MARAD, and possibly industry representatives, to study the possibility of replacing the Sealift Readiness Program with a new voluntary program.

Jan 92 Logistics Management Institute (LMI) published *A Review of DoD's [Department of Defense's] Strategic Mobility Programs Commercial Sealift Support*. This report, which was prepared for the Office of the Secretary of Defense (Production and Logistics) and then forwarded to the Commander in Chief, United States Transportation Command, assessed DOD policies and practices for augmenting organic strategic sealift assets with commercial capabilities, and evaluated the overall utility of the Sealift Readiness Program (SRP). The report stated that DOD needed to revitalize its SRP to meet the lift requirements of future emergencies and that the method the Military Sealift Command used to procure commercial sealift services (direct competitive bidding) precluded effective military/industry contingency planning, a key ingredient for a sound sealift augmentation program. LMI recommendations included: (1) develop a strategy for the expanded use of container ships and container liner service, and incorporate worldwide intermodal transportation services into the SRP; (2) develop and test procedures for establishing long-term ocean transportation contracts with guaranteed tonnage and “constructed rates”; and (3) prepare DOD directive that would establish an expanded SRP, and seek to update the existing Memorandum of Understanding between DOD and the Department of Transportation concerning sealift augmentation.

10 Mar 92 Navy Vice Admiral Francis R. Donovan, Commander, Military Sealift Command, expressed his view to the Deputy Chief of Naval Operations (Logistics), that the Logistics Management Institute final report contained numerous inaccuracies, conflicting statements, and unsubstantiated conclusions, and should not be used as the sole basis for changes to Department of Defense (DOD) transportation policy. Admiral Donovan had additional concerns about any sort of major procurement “reform” and was troubled over continuing assertions that price competition was somehow counter-productive to the long-term interests of DOD or major shipping companies. He also believed that any reduction in price competition would commit DOD to scrap the present procurement approach in favor of “constructed rates” (cost based ratemaking) predicated on ocean carrier participation in a restructured Sealift Readiness Program.

21 Apr 92 The Joint Staff (VDL), tasked USTRANSCOM, under the purview of the Joint Staff and in coordination with the Office of the Secretary of Defense and the Navy, to evaluate the Department of Defense's Sealift Readiness Program and sealift procurement, to include developing a strategy for expanded use of container ships and container liner service (all within the framework of the Mobility Requirements Study).

08 Jul 92 The Maritime Administrator, Navy Captain Warren G. Leback, forwarded a revised draft of the Voluntary Intermodal Sealift Agreement to Air Force General Hansford T. Johnson, Commander in Chief, United States Transportation Command, for his review and comment. Captain Leback also recommended that a joint working group be formed to review the draft and make changes towards a more workable agreement.

23 Nov 92 Air Force General Ronald R. Fogleman, Commander in Chief, United States Transportation Command (USTRANSCOM), formally responded by letter to the Maritime Administrator's revised Voluntary Intermodal Sealift Agreement (VISA) draft, stating that USTRANSCOM would continue to evaluate all options and alternatives to the Sealift Readiness Program in consultation with its components and with industry representatives of the National Defense Transportation Association Sealift Committee. He also indicated that VISA seemed to have merit and that other initiatives under consideration closely paralleled the basic tenets of VISA.

08 Feb 93 (First?) Conference of Maritime Chief Executive Officers hosted by the United States Transportation Command (USTRANSCOM). Air Force General Ronald R. Fogleman, Commander in Chief, USTRANSCOM, presented the concept of a Civil Reserve Air Fleet (CRAF)-like sealift readiness program, and a proposal to proceed with an analysis of a constructed rate system and test plan. Memorandum for the Record recognized that the Sealift Working Group was tasked to build a test plan to develop the objectives, methodology, measures of merit, and milestones for subsequent testing in a CRAF-like environment. The National Defense Transportation Association's Sealift Committee was tasked to look at Ready Reserve Force composition alternatives in the context of future needs and as force structure decisions continued to unfold. The conference focused on the continuing evaluation of alternatives to sealift procurement and Sealift Readiness Program.

21 Jan 94 In its final report, the Cost Data Model Team--consisting of representatives from Military Sealift Command (MSC), Price-Waterhouse, and the Department of Transportation's Volpe Center--concluded that a cost based (Civil Reserve Air Fleet [CRAF]-like) rate system on all routes was not technically feasible and should not be pursued. Because there were major differences in the way ocean carriers allocate various costs, as well as wide variances in carrier costs (dollar per container mile), the application of a constructed rate to several different ocean carriers would be too complex and inflexible. The team recommended that improvements to the current competitive system be pursued. The report also recommended further study by United States Transportation Command (USTRANSCOM) and the National Defense Transportation Association, and their serious consideration of time-phased wartime commitments of shipping capacity with pre-negotiated rates.

04 Feb 94 In a letter from Navy Vice Admiral Michael P. Kalleres, Commander, Military Sealift Command, to Air Force General Ronald R. Fogleman, Commander in Chief, United States Transportation Command, forwarded future meeting notes and recommendations concerning the development of a Civil Reserve Air Fleet-like sealift program in light of the Cost Data Model Team final report. The Admiral's briefing notes

included recommendations to consider joint planning with industry; the pooling of carrier assets to meet performance requirements; pre-lodged procurement pricing methods to enhance transition; reengineering the Sealift Readiness Program to better utilize commercial expertise and total intermodal infrastructure; participation incentives; and the possibility of prenegotiated overhead rates for contingency.

09 Feb 94 At the Maritime Industry Chief Executive Officer Conference, Air Force General Ronald R. Fogleman, Commander in Chief, United States Transportation Command, directed Navy Vice Admiral Michael P. Kalleres, Commander, Military Sealift Command, to initiate a Sealift Readiness Improvement Study to improve procurement approaches for peace and war, reengineer the Sealift Readiness Program, and streamline business practices.

30 Mar 94 Navy Vice Admiral Michael P. Kalleres, Commander, Military Sealift Command, provided Air Force General Ronald R. Fogleman, Commander in Chief, United States Transportation Command (USTRANSCOM), a status report on the Sealift Readiness Improvement Study, which he had initiated in February. The report included the highlights of the three working groups established by industry: Requirements Planning Group, Readiness Group, and Transportation Acquisition Process Group. Admiral Kalleres expressed his concern over the possible duplication of effort with respect to the Readiness Group in that even though it included representatives from the Maritime Administration and USTRANSCOM, there was evidently a parallel effort ongoing between the two organizations to develop a Voluntary Intermodal Sealift Agreement (VISA) to replace the Sealift Readiness Program. He recommended that the VISA effort be merged into the Readiness Group.

13 Apr 94 In a letter to Navy Vice Admiral Michael P. Kalleres, Commander, Military Sealift Command, Air Force General Ronald R. Fogleman, Commander in Chief, United States Transportation Command (USTRANSCOM), confirmed discussions between USTRANSCOM and the Maritime Administration (MARAD) concerning a draft Voluntary Intermodal Sealift Agreement (VISA). Retired Navy Vice Admiral Albert J. Herberger, former Maritime Administrator, initiated the discussion during his visit to USTRANSCOM in January. General Fogleman stated that he believed the VISA initiative with MARAD would establish a statutory vehicle for joint planning and subsequent readiness agreements, and would be complementary to the Sealift Readiness Improvement Study. He also stated that while USTRANSCOM was not yet ready to endorse it, the basic tenets of the draft VISA, with modifications, could support most Department of Defense mobilization objectives; and once a mutually agreeable joint planning arrangement had solidified, the readiness aspects of VISA should be worked out in the Readiness Group.

15 Apr 94 Military Sealift Command (MSC) forwarded to Commander in Chief, United States Transportation Command, its review and comparison of the three sealift readiness programs under consideration: Sealift Readiness Program (SRP), Voluntary Intermodal Sealift Agreement (VISA), and the MSC-formulated Joint Planning Agreement (JPA). Serving as an alternative to VISA, JPA would, according to MSC,

focus on joint planning, with participants developing plans of action covering various scenarios and contingencies. It would be patterned after the way MSC provided peacetime sealift (and there would be contracts to order services planned for by JPA participants). MSC would enhance current procurement policies and procedures which, when coupled with the JPA, would then constitute a sealift readiness program. MSC recommended the incorporation of portions of VISA into the JPA, and then using both of them in conjunction with a revised SRP. MSC argued that this would provide improved industry commitments, continuing Department of Defense (DOD) participation, and DOD rate control.

[Explanation for following shift in COMSC position?]

26 Apr 94 In a memorandum to the Director, Plans and Policy Directorate, United States Transportation Command (USTRANSCOM), Navy Vice Admiral Michael P. Kalleras, Commander, Military Sealift Command (MSC), stated that he saw “the merits in the proposed Voluntary Intermodal Sealift Agreement (VISA) of strengthening our maritime industry partnership and facilitating joint planning.” Nevertheless, he believed certain issues still needed to be addressed including Secretary of Defense/Secretary of Transportation activation authority, clarification of rate setting methodology, contract commitments, and proportional contribution levels. He was also concerned that a plan of action for determining rates still had to be worked out; that the Maritime Administration would administer the VISA program rather than MSC; and that MSC would no longer be the single point of contact for identifying commercial ships (though MSC would remain in charge of non-VISA ships and any foreign flag charters, and act as contracting officer for ships chartered for Department of Defense under the VISA program). In spite of his ongoing concerns, the Admiral recommended endorsing “VISA, as revised by USTRANSCOM, as the joint planning vehicle in an adjunct capacity to a re-engineered SRP [Sealift Readiness Program].”

29 Apr 94 In response to their expressed preference for the Maritime Administration’s Voluntary Intermodal Sealift Agreement (VISA) model, Air Force General Ronald R. Fogleman, Commander in Chief, United States Transportation Command (USTRANSCOM) underscored to both Mr. J. Hayashi, President and Chief Executive Officer (CEO) of American President Lines, Limited, and Mr. John Clancey, President and CEO of Sea-Land Services, Incorporated, USTRANSCOM’s position that the VISA concept was the most appropriate means for establishing a sound sealift readiness program to meet the needs of both the Department of Defense and industry. He also told them that USTRANSCOM was committed to developing and testing the concept of a market based rate system as soon as possible. In a personal note to Mr. Hayashi, General Fogleman stated that “I think we are very close to coming to closure on VISA as the program of choice.”

06 May 94 After conferring with Navy Vice Admiral Michael P. Kalleras concerning his memorandum of 26 April, and reviewing the forwarding notes of the United States Transportation Command (USTRANSCOM) Director of Policy and Plans (Navy Rear Admiral William V. Cross), Army Lieutenant General Kenneth R. Wykle, Deputy

Commander in Chief, USTRANSCOM, inquired of his boss, General Ronald R. Fogleman, Commander in Chief, USTRANSCOM, as to whether he would be comfortable with VISA and with the much stronger role of the Maritime Administration (MARAD). General Fogleman responded by personal note: "Let's do it! Continue to work w/MARAD to get change in legislation agreed to."

10 May 94 In a letter to the Hon. Janet Reno, Attorney General of the United States, Department of Justice, and in accordance with Section 708 of the Defense Production Act of 1950, Retired Navy Vice Admiral Albert. J. Herberger, Maritime Administrator, formally proposed the development of "a standby voluntary agreement for the contribution of intermodal shipping services/systems for national defense purposes." The letter requested her approval of the proposal and also enclosed a copy of the Maritime Administration's Draft Working Paper (dated May 6, 1994) of the Voluntary Intermodal Sealift Agreement.

09 Aug 94 The Hon. Janet Reno, Attorney General of the United States, Department of Justice, formally approved the publication of the draft text of the Voluntary Intermodal Sealift Agreement in the Federal Register.

17 Aug 94 Maritime Administration published its proposed draft text of the Voluntary Intermodal Sealift Agreement in the Federal Register as "Voluntary Intermodal Sealift Agreement; Notice."

?? Oct 94 At the National Defense Transportation Association's (NDTA's) Sealift Committee Meeting, the principals agreed that senior leadership at all levels of the United States Transportation Command, the Maritime Administration, NDTA, and industry had to get personally involved in order to overcome the problems blocking further development of a program to replace the Sealift Readiness Program.

23 Feb 95 In a Memorandum to the Joint Staff, Director of Logistics and the Deputy Under Secretary of Defense (Logistics), Army Lieutenant General Kenneth R. Wykle, Deputy Commander in Chief, United States Transportation Command (USTRANSCOM), stated that USTRANSCOM was working with the Maritime Administration (MARAD) and Military Sealift Command (MSC) to modify and expand MARAD's Voluntary Intermodal Sealift Agreement (VISA) to allow for pre-determined, staged activation of sealift capability to meet Department of Defense (DOD) requirements (in a "CRAF [Civil Reserve Air Fleet]-like approach"). He also stated that the Secretaries of Transportation and Defense would activate VISA upon a joint determination "when a dry cargo shipping capacity emergency exists and the capacity cannot be supplied through the commercial market or other voluntary arrangements." Furthermore, he emphasized that prior to VISA activation, DOD requirements would be met through USTRANSCOM executed contracts that would be previously established under joint planning arrangements with industry and MARAD.

02 Mar 95 In a Memorandum prepared for the Chief of Naval Operations, Navy Vice Admiral William A. Earner, Jr., (N4-Logistics) stated that he believed that Retired Navy

Vice Admiral Albert J. Herberger, the Maritime Administrator, was “literally wedded to his VISA [Voluntary Intermodal Sealift Agreement] program and accompanying subsidy, MSP [Maritime Subsidy Program]”. He also believed that Vice Admiral Herberger was convinced that as the operating subsidy program expired over the next several years, US firms would transfer most of their liner ships from US to some foreign flags; and that the government would be able to retain control over these ships only through a voluntary, contractual agreement such as VISA. Admiral Earner also stated his view that VISA would not work without the subsidy, but that he was increasingly concerned that the MSP subsidy (maybe \$100 million) might become a Department of Defense or Department of Navy bill to pay.

?? Mar 95 The National Defense Transportation Association’s Military Sealift Committee created an Executive Working Group (EWG) to work issues associated with developing and implementing a “CRAF-like” Voluntary Intermodal Sealift Agreement (VISA). Air Force General Rutherford, Commander in Chief (USTRANSCOM) tasked Army Lieutenant General Kenneth R. Wykle, Deputy Commander in Chief (USTRANSCOM) to chair the EWG. Composed of representatives from Department of Defense, Department of Transportation, maritime labor, and shipping companies, the EWG would meet at least monthly, form subordinate working groups as needed, identify VISA concepts and issues, and draft a VISA document by May/June 1995. EWG would also plan the VISA Venture 95 exercise.

01 May 95 In a United States Transportation Command (USTRANSCOM) Update, Army Lieutenant General Kenneth R. Wykle, Deputy Commander in Chief, USTRANSCOM, remarked on his meeting with Military Sealift Command (MSC) principal staff, concerning the proposed Voluntary Intermodal Sealift Agreement (VISA) document, that the “Price/Cost issue will require a change in philosophy-[a] change in the way of doing business.” He stated that MSC staff wanted to obligate the contractor to provide assured access to the government, but that they also wanted “the government to be free to go on the open market at anytime to get the lowest tramp steamer or rogue ship that might be out there.” He underscored USTRANSCOM’s position that if the government expected the carrier to sign up then the carriers must have assured access to government business. However, if the carriers could not meet Department of Defense requirements, USTRANSCOM would then have the flexibility to go to the open market. General Wykle also had the impression that Navy Vice Admiral Phillip M. Quast, Commander, MSC, appeared increasingly flexible about changing the way MSC did business, but his civilian staff still seemed reluctant to change their past procedures.

20 Jul 95 VISA Venture 95. The first Voluntary Intermodal Sealift Agreement (VISA) war game. Two days in length, it was the first time that carriers and Department of Defense (DOD) used VISA processes and procedures to apply commercial sealift capacity to meet a single Major Regional Contingency (MRC) requirement. Representatives from DOD, industry, labor, Department of Transportation, and Maritime Administration participated. Exercise objectives included identifying movement requirements, initiating request for volunteers, and implementation of VISA Stages I, II, and III. Exercise results indicated that the Joint Planning Advisory Group (consisting of

representatives of MARAD, USTRANSCOM, labor, and program participant operators) planning concept worked; Stages I and II were somewhat blurred; and, in general, industry supported Stage III.

28 Jul 95 Proposed draft of United States Transportation Command's (USTRANSCOM's) Implementing Instructions to Voluntary Intermodal Sealift Agreement (VISA) addressed contracting methods, issues, and processes by which VISA participants would actually enter into contractual arrangements for the time-phased commitments of sealift capacity to meet Department of Defense (DOD) requirements. The document would also form the basis of a Memorandum of Agreement between USTRANSCOM and Program participants. As to contracting methodology, price, level of service, and level of mobilization commitment for contingency capability would be accomplished and implemented in a peacetime contract(s). Contracts would furnish participants with the capability to meet DOD requirements, and provide government and industry participants with a compensation rate and adjustment methodology in advance. The contracts would also give industry and government the ability to concentrate on executing the contingency mission rather than negotiating price and service at the time of the contingency.

31 Jul 95 In a letter to Air Force General Robert L. Rutherford, Commander in Chief, United States Transportation Command (USTRANSCOM), Navy Vice Admiral Phillip M. Quast, Commander in Chief, Military sealift Command, concurred with the idea that Department of Defense (DOD) must be prepared to pay the carriers reasonable additional costs for the guaranteed contingency shipping capability. Admiral Quast reaffirmed his support for Voluntary Intermodal Sealift Agreement and proposed seeking regulatory or statutory changes that might allow for DOD to give preference to foreign flag ships owned by U.S. companies and operated by U.S. crews. He also proposed a so called "readiness surtax," which would consist of adding a cost per ton or cost per box to the base price of peacetime transportation.

13 Aug 95 Department of Transportation approved Voluntary Intermodal Sealift Agreement document. (20 Sep 96 Chronology; cannot confirm?)

22 Aug 95 Air Force General Robert L. Rutherford, Commander in Chief, United States Transportation Command (USTRANSCOM) informed Navy Commander Vice Admiral Phillip M. Quast, Commander, Military Sealift Command, that USTRANSCOM intended to implement a uniform rate concept for contracts in the Pacific which would coincide with the phased prototype implementation of the Voluntary Intermodal Sealift Agreement readiness program.

24 Aug 95 In a letter to Dr. Paul Kaminski, Under Secretary of Defense (Acquisition and Technology), who had raised earlier concerns as to whether the constructed rate approach would be cost effective for Department of Defense (DOD), Air Force General Robert L. Rutherford, Commander in Chief, United States Transportation Command (USTRANSCOM), confirmed that industry Chief Executive Officers agreed to sign up for a one year Voluntary Intermodal Sealift Agreement (VISA) prototype implementation

plan. Under that plan, carriers would be committing to VISA Stage III and to providing 50 percent of their U.S. flag capacity to meet DOD requirements. He also stated that, during this implementation period, USTRANSCOM would continue to coordinate and refine the VISA process, develop draft documents, validate Stage I and II DOD requirements, and determine a peacetime cargo allocation process in the Pacific (with Sea Land and American President Lines). USTRANSCOM intended to fully implement VISA by October 1996. General Rutherford reaffirmed his belief that the key to the Pacific test would be the development and implementation of a “constructed rate concept” (which was also referred to as the VISA uniform commercial rate). USTRANSCOM and Military Sealift Command, he continued, would work together the development of a Justification and Approval document required for a mobilization exception to full and open competition.

15 Sep 95 Air Force General Robert Rutherford, Commander in Chief, United States Transportation Command, notified the Joint Chiefs of Staff and the Secretary of Defense that he had recently been informed by MARAD that the Department of Justice had given its approval to Voluntary Intermodal Sealift Agreement (and that approval provided the necessary authority under the Defense Production Act to allow carriers to team and pool their assets to meet DOD contingencies). The CINC formally requested approval to allow VISA to satisfy the carriers’ Sealift Readiness Program (SRP) commitments during the one-year implementation period for those subsidized carriers who chose to join.

10 Oct 95 Army General John M. D. Shalikashvili, Chairman of the Joint Chiefs of Staff, approved the USTRANSCOM request to allow Voluntary Intermodal Sealift Agreement (VISA) to fulfill carriers’ Sealift Readiness Program (SRP) requirements during a one year implementation period.

11 Oct 95 Department of Justice Antitrust Division granted written approval of the Maritime Administration’s revised proposal to develop a Voluntary Intermodal Sealift Agreement and recognized the proposed document as “the first official step in the development of a final voluntary agreement.”

19 Oct 95 Modified text of the Voluntary Intermodal Sealift Agreement published in the Federal Register (with the notation that USTRANSCOM, DOJ, and FTC and formally concurred).

30 Oct 95 The Secretary of Defense approved the USTRANSCOM proposal for Voluntary Intermodal Sealift Agreement (VISA) Stage III to satisfy ocean carriers’ existing commitments to the DOD Sealift Readiness Program on a trial basis for Fiscal Year 1996. He also stated that he expected a VISA Stage III trial to provide a mechanism for refining Stages I and II, and to allow for joint planning between Department of Defense and industry carriers to meet contingency requirements. The Secretary of Defense formally requested USTRANSCOM to fully evaluate the uniform commercial rate (UCR) and best value rate (BVR) ratemaking alternatives.

01 Nov 95 Draft Defense Contract Audit Agency audit, concerning the contractors' proposal for a test of the uniform commercial rate pricing methodology in the Pacific theater, concluded that the suggested pricing mechanism did not result in a consistently reliable estimate of fair and reasonable constructed ocean or inland rates. No favorable conclusions could be drawn concerning the overall fairness and reasonableness of the proposed pricing methodology.

10 Nov 95 Twenty-two carriers signed up for the Voluntary Intermodal Sealift Agreement Stage II prototype.

14 Nov 95 In a letter to both Mr. John Clancey, Chief Executive Officer (CEO) of Sea-Land Service, Incorporated, and Mr. Timothy Rhein, CEO of American President Lines, Limited, Air Force General Robert L. Rutherford, Commander in Chief, United States Transportation Command (USTRANSCOM), addressed their concerns about Military Sealift Command's (MSC's) overall commitment to previously negotiated Voluntary Intermodal Sealift Agreement (VISA) policy issues and MSC priorities affecting peacetime and wartime cargo. He stated that "our fundamental principle remains that priority for peacetime and wartime cargo will be accorded to VISA participants, subject to cargo preference statutes, utilizing U.S. flag and foreign flag capacity controlled by participants." He also stated that USTRANSCOM would continue to work with MSC and the Executive Working Group to resolve the contractual issues associated with implementing such priorities.

15 Nov 95 First Joint Planning Advisory Group (JPAG) meeting convened at the Maritime Administration (MARAD). Meeting quarterly, JPAG agenda items would include JPAG operating procedures, Voluntary Intermodal Sealift Agreement (VISA) implementation plan, and the definition of wartime operational requirements. The JPAG consisted of two co-chairs: the Maritime Administrator and Commander in Chief, United States Transportation Command (USTRANSCOM); and representatives from MARAD, USTRANSCOM, program participant operators, and labor. It provided the planning process to identify and discuss Department of Defense (DOD) sealift service and service requirements; matched peacetime requirements related to exercises and special movements with commercial capacity as a method to test wartime arrangements; recommended concepts of operations to meet peacetime and wartime requirements for use by contracting officers in developing contracts; and provided carriers an antitrust defense for pooling and teaming arrangements in support of DOD.

13 Dec 95 Air Force General Robert L. Rutherford, Commander in Chief, United States Transportation Command (USTRANSCOM), updated Mr. John Clancey, Chief Executive Officer (CEO) of Sea-Land Service, Incorporated, and Mr. Timothy Rhein, CEO of American President Lines (APL), Limited, on the progress of the universal commercial rate (UCR) test in light of the Defense Contract Audit Agency (DCAA) report in November. He stated that USTRANSCOM had met with DCAA, Military Sealift Command, and representatives of APL to resolve and fix contested issues. He did not believe that any of the remaining matters were showstoppers. He also stated that he was looking for a decision point on the UCR test by mid-January of 1996.

5 Jan 96 In a letter to Dr. Paul Kaminski, Under Secretary of Defense (Acquisition and Technology), Air Force General Robert L. Rutherford, Commander in Chief, United States Transportation Command (USTRANSCOM) further described USTRANSCOM's efforts to simultaneously develop two alternative contracting models. The UCR model would be based upon a uniform rate applicable in peace and war (and determined by analyzing competitive prices in a broad marketplace), and the BVR model would be based upon a weighted evaluation of price and other factors, such as service and commitment to readiness (competitively offered by U.S. flag carriers). General Rutherford also stated that the overall objectives remained a seamless transition from peace to war and minimizing contract activity in the midst of an emergency.

29 Jan 96 In a Memorandum to the Assistant Deputy Under Secretary of Defense, Transportation Policy (Logistics), Ms. Eleanor Spector, Director of Defense Procurement, expressed several reservations about the overall universal commercial rate (UCR) testing process, and she inquired as to why the UCR approach required an operational test, as opposed to a paper test. She also stated that she was not as confident that the UCR pricing mechanism would produce only "minimal" additional costs during the testing period.

31 Jan 96 In letters to Mr. John Clancey, President and CEO, Sea-Land Service, Inc., and Mr. Timothy Rhein, President and CEO, American President Lines, Inc., Vice Admiral P. M. Quast (Commander, Military Sealift Command) confirmed their previous discussions concerning MSC's plan to transition from its current Worldwide Rate Guide competitive process into new streamlined processes, either Uniform Commercial Rate (UCR) or Best Value Rates (BVR), or both. He also informed them that he had developed a plan to test both pricing methodologies and that he would be recommending a parallel test of both mechanisms on the Pacific trade routes (which had the existing advantages of competition for DOD cargo volume, sufficient carrier capacity, a diverse shipper marketplace, and real mobilization requirements).

01 Mar 96 In letters to participating VISA CEOs, Army Lieutenant General Hubert Smith, Deputy Commander in Chief, U.S. Transportation Command, advised all participants that USTRANSCOM had every intention to conduct "side by side" evaluations of the UCR and BVR processes on the Pacific trade routes. Data collection on both tests would run through December 1996 with all DOD traffic on the Pacific routes divided equally between the UCR and BVR process. The objective was to make a recommendation to DOD regarding implementation of either proposal not later than January 1997.

04 Mar 96 In a letter to Air Force General Robert L. Rutherford, Commander in Chief, United States Transportation Command (USTRANSCOM), Mr. Paul Kaminski, Under Secretary of Defense (Acquisition and Technology) permitted testing of the universal commercial rate (UCR) and best value rate (BVR) process to continue; however, he stated that "it remains to be seen whether a negotiated rate should ever supplant a competitively arrived rate." He also stated that he was looking forward to

receiving a test plan from USTRANSCOM, which would provide criteria to evaluate the impact of the UCR and BVR concepts on streamlining Department of Defense acquisition, readiness, cost, and customer service.

20 Mar 96 In a Talking Paper presented by the Office of the Chief Counsel (USTRANSCOM), concerning possible antitrust defenses provided to VISA participants through Section 708 of the Defense Production Act (DPA), USTRANSCOM was advised that the DPA authorized an antitrust defense for participants in a DOJ-approved “voluntary agreement”; and VISA, in its May 1995 form, was a DOJ approved “voluntary agreement”. The DPA also authorized an antitrust defense for DOJ-approved “plans of action” that implemented VISA; and carrier protection agreements that provided for teaming, pooling, coordinated sailings, etc. would be considered “plans of action”. USTRANSCOM was also advised to involve MARAD in further joint action to obtain greater DOJ flexibility in finally implementing DPA authority for VISA.

26 Mar 96 Second Joint Planning Advisory Group convened 26-28 March to review overall Major Regional Contingency (MRC) requirements with VISA participants.

05 Apr 96 In letters to both Mr. Timothy Rhein of American President Lines and Mr. John Clancey of Sea-Land Services, Air Force General Robert L. Rutherford, Commander in Chief, United States Transportation Command (USTRANSCOM), confirmed that the second Joint Planning Advisory Group (JPAG) meeting had been completed successfully and, for the first time, Department of Defense and industry had shared details of specific movement requirements and operational scenarios in advance of an actual contingency. He also stated that after many months of jointly working towards the implementation of UCR/VCR, they would soon be entering the final stage of that process. He confirmed that DOD and industry continue to make progress towards a fully functioning JPAG, the VISA VENTURE exercise, and implementation of their contracting initiatives.

30 Apr 96 VISA VENTURE 96, a Second Voluntary Intermodal Sealift Agreement (VISA) war game held at United States Transportation Command. Carriers and Department of Defense (DOD) worked sealift solutions to meet two nearly simultaneous Major Regional Contingencies (MRCs) scenario. Results of the exercise indicated that overall VISA structure and procedures were valid and that ammunition container availability was problematic. Lessons learned included the need for pre-approved Carrier Coordination Agreements, statutory relief for backfill waivers, JPAG to define teaming requirements, and joint planning to minimizing disruption. Recommendations included focusing future exercises on operational issues and linking future wargames to DOD command post exercises.

31 May 96 Staff Summary Sheet from Chief Counsel (USTRANSCOM) presented UCR/BVR Assessment Plan and a Plan of Action for test plan execution to the USTRANSCOM DCINC for approval. Carrier representatives had been provided a high level briefing on the various elements (Customer Service, Readiness, Process Streamlining, and Cost) at the EWG on 30 May.

10 July 96 Third Joint Planning Advisory Group convened 10-11 July to develop commercial sealift Concept of Operations (CONOPS) to meet DOD's Korea and SWA ammunition requirements.

11 July 96 In a letter to Army Lieutenant General Hubert G. Smith, Deputy Commander in Chief, US Transportation Command, the Hon. A. J. Herberger, Maritime Administrator, requested written confirmation of his understanding that, with regard to the proposed final VISA document, the Secretary of Transportation would allocate sealift assets committed by participants to Stage III once USCINCTrans activated Stage III. MARAD maintained that it had the responsibility to ensure that the essential civilian economy was adequately served even during a national security emergency.

15 July 96 In a letter to the Maritime Administrator, Army Lieutenant General Hubert G. Smith confirmed that USTRANSCOM changes to VISA Stage III activation language clearly explained that Stage III would be activated by USCINCTrans upon approval by the Secretary of Defense and, upon activation, DOD would request the Secretary of Transportation to allocate sealift capacity. General Smith made the point that the revised VISA language was now consistent with how USCINCTrans and SECDEF activated the Civilian Reserve Air Fleet (CRAF).

12 Aug 96 The Hon. Joan Yim, Acting Maritime Administrator, submitted the final text of the Voluntary Intermodal Sealift Agreement to Ms. Anne Bingaman, Assistant Attorney General, Antitrust Division (U.S. Dept. of Justice).

12 Aug 96 Air Force General Walter Kross notified the Chairman of the Joint Chiefs of Staff and the Secretary of Defense that the Maritime Administrator, on behalf of the Secretary of Transportation, approved the final VISA document, and submitted the agreement to the Justice Department for approval. Accordingly, General Kross formally requested the approval of the Secretary of Defense to fully implement the final VISA program.

12 Aug 96 Army Lieutenant General Hubert G. Smith, Deputy Commander in Chief, US Transportation Command, concurred with the recommendation of Navy Vice Admiral Philip Quast, Commander, Military Sealift Command, to extend the Uniform Commercial Rates and Best Value Rates (UCR/BVR) test contracts by an additional four months through 30 September 1997.

13 Aug 96 In a letter to the Secretary of Defense, the Secretary of Transportation Federico Pena expressed his continued support of VISA and reaffirmed that DOD would be responsible for activating VISA when normal commercial mechanisms to obtain sealift could not meet the military requirement. The Maritime Administrator would then allocate vessels, sealift capacity, and intermodal assets consistent with procedures established in VISA to ensure that military requirements were met in a timely and efficient manner.

09 Sep 96 In a Memorandum to the Chief Counsel, USTRANSCOM, Ms. Joan Bondareff, Chief Counsel, Maritime Administration, confirmed that the authority to implement the Voluntary Intermodal Sealift Agreement (VISA) had been specifically delegated to the Maritime Administrator. Furthermore, the Secretary of Transportation had specifically delegated to MARAD authority over all aspects of Defense Production Act (DPA) voluntary agreements pertaining to shipping; and no other DOT modal administrator or department office had been delegated authority to implement Section 708 of the DPA.

13 Sep 96 In a Memorandum for the Office of Transportation Policy for the Secretary of Defense, Air Force Colonel Gilbert Regan, Chief Counsel, USTRANSCOM, confirmed that MARAD had been delegated sufficient legal authority to sponsor VISA, to sign VISA, and to implement the operational allocation responsibilities described in VISA.

20 Sep 96 In a Memorandum to the Director of Logistics at the Joint Staff, Navy Captain T. L. Willis, Assistant to the CNO for JCS Matters, confirmed that Navy Staff recommended SECDEF extend the current VISA Agreement beyond the one year period as may be appropriate to provide USTRANSCOM and the ocean carriers time to complete the developmental evaluations of the VISA Agreement contracting methodologies and negotiation of the VISA prenegotiated contracts called for in the USTRANSCOM memorandum supporting the 1995 VISA Agreement. He emphasized that only with completion of the evaluation and negotiations will all parties, including the Navy, be in a position to consider the costs and benefits involved in the full implementation of VISA.

20 Sep 96 In response to the Navy's position that SECDEF withhold approval for full implementation of VISA until such time as USTRANSCOM completed evaluation of the VISA contracting methodologies and negotiation of the prenegotiated contracts, Mr. Frank Weber, Deputy Director of Plans and Policy, USTRANSCOM, presented a talking paper that maintained that the VISA document was not designed to be a contract but rather a program framework MSC contracting officers would implement in accordance with approved contracting procedures and policies. USTRANSCOM should also continue to emphasize that VISA provided pre-approved contingency access to commercial lift, maintained DOD contracting flexibility, and used approved contracting procedures. The bottom line, according to Mr. Weber, was the VISA document adequately framed a program that DOD could reasonably expect to meet its readiness requirements at a fair and reasonable cost; and a delay in final approval would undermine DOD's credibility in this overall effort with industry.

18 Oct 96 In a letter to the Maritime Administrator, Mr. Joel Klein, Acting Assistant Attorney General, Antitrust Division, Department of Justice, issued a determination that in accordance with the standards set forth in the Defense Production Act, the purposes of the VISA Agreement could not reasonably be achieved by a voluntary agreement or plan of action having less competitive effects, or without any voluntary agreement.

04 Dec 96 The Rate Methodology Working Group (RMWG), consisting of representatives from the Joint Traffic Management Office (JTMO), MARAD, and MSC, held its first meeting. The Executive Working Group assigned it the task to complete a Stage III contract by 04 Feb 97.

09 Dec 96 Final Voluntary Intermodal Sealift Agreement (VISA) published by MARAD and USTRANSCOM.

12 Dec 96 In a Memorandum for the USCINCTrans concerning the Maritime Security Act (MSA) of 1996, the Secretary of Defense confirmed that USTRANSCOM would be his "representative to the Department of Transportation for subsequent implementation and administration of the MSA, in coordination with the Joint Staff and the OSD staff."

06 Jan 97 In response to the VISA Executive Working Group (EWG) directive to develop a draft VISA Stage III rate mechanism, the Rate Methodology Working Group (RMWG), consisting of representatives from the Joint Traffic Management Office (JTMO), MARAD, and MSC, met 06-09 January 1997 to discuss the advantages and disadvantages of numerous VISA contingency rate methodologies. The RMWG requested participating shipping companies to provide business sensitive operating, revenue, and expense data for each specific vessel.

30 Jan 97 In a Memorandum to USCINCTrans, SECDEF approved the full implementation of the VISA Agreement as an alternative to the Sealift Readiness Program.

05 Feb 97 Parallel assessment of Uniform Commercial Rate (UCR) and Best Value rate (BVR) methodologies began in the Pacific theater with Sea-Land and American President Lines and continued through 08 October. Key metrics in the analysis were readiness, cost, improved service, and process streamlining.

13 Feb 97 The Maritime Administration announced the implementation of the Voluntary Intermodal Sealift Agreement and the Federal Register published the final text.

21 Feb 97 Through letters to participating carriers, the Mobility Analysis Division of USTRANSCOM's Plans and Policy Directorate solicited updates of Stage III capacity numbers so that the Joint Traffic Management Office could complete the process of preparing the interim VISA Enrollment Contracts (VEC).

10 Apr 97 National Defense Transportation Association (NDTA) Military Sealift Committee CEO Meeting at Scott AFB, Illinois, the first CEO meeting since the Secretary of Defense approved the VISA document for full implementation. USTRANSCOM announced that capacity sizing for VISA Stages I and II had been changed to 15 percent and 40 percent respectively. As to the status of Stage III rate making methodology, the Rate Making Working Group (RMWG) confirmed that a revenue based approach (baselined on carriers' revenue accounting data) was being

used to develop two types of rates: a revenue per slot rate for on route liner service and a per diem rate for off route charter service. The calculation of those rates should be completed by July 1997, and the rates would be tested for use in VISA Stage I and II contracts. A report on the progress of UCR/BVR indicated that the goal of both contracts was to facilitate implementation of the readiness program using a streamlined liner service acquisition process. UCR focused on utilizing the best commercial practices while BVR captured the benefit of competition where it exists. More time was needed to complete the UCR/BVR assessment process.

14 Apr 97 In a Policy Memorandum to Commander, Military Sealift Command and Commander, Military Traffic Management Command, USCINCTrans, Air Force General Walter Kross, set out the prioritized order for utilization of commercial sealift capacity to meet DOD peacetime and contingency contract requirements: first priority would be for US flag vessel capacity operated by a VISA participant and US Flag Vessel Sharing Agreement capacity of a participant, and last priority for foreign-owned or operated foreign flag vessel capacity of a non-participant).

22 Apr 97 In a Memorandum to Commander, Military Sealift Command (MSC), and Commander, Military Traffic Management Command (MTMC), Army Lieutenant General Hubert G. Smith, Deputy Commander in Chief, USTRANSCOM, confirmed that the Universal Service Contract (USC) represented the next major step in the collective efforts to streamline the sealift acquisition process and improve service to customers. USTRANSCOM tasked MTMC as the lead agent for USC transition and implementation, with MSC and USTRANSCOM staff to support as required.

29 Apr 97 UCR and BVR Assessment Report published by the Volpe National Transportation Systems Center, Department of Transportation. One aspect of VISA was an innovative peacetime contracting approach linking USTRANSCOM and the US ocean carriers to contingency requirements. Within VISA, the two contracting approaches for procuring intermodal, end-to-end ocean transportation service for DOD containerized cargo were being operationally tested and were being applied to DOD container cargo moving between the west coast and the Pacific Far East. The Uniform Commercial Rate contract became operationally effective June 1996 and the Best Value Rate became effective February 1997. This report was the primary assessment of the UCR and BVR contracting methodology test and would serve as the basis of USTRANSCOM's subsequent report to OSD. Four major areas were assessed: Service Improvement, Cost Assessment, Readiness, and Streamlined Acquisition.

19 May 97 Rate Methodology Working Group (RMWG) submitted proposed methodology, instructions, and procedures for calculating VISA Stage III rates (per shipment and per diem) to the Defense Contract Audit Agency (DCAA) for review and analysis. DCAA specifically requested to review if: 1) each carrier's accounting system was capable of providing the required data; 2) the actual revenue and expense data provided by each carrier was accurate and complete; 3) the methodology itself was capable of consistently producing rates; and 4) the carriers and the government had the

same understanding of what data needed to be submitted, how it was to be analyzed, and how rates were to be computed.

02 Jun 97 DCAA began carrier audits two months later than planned due to late carrier data submissions and the need for the RMWG to resolve problems with data.

06 Jun 97 Benchmark contract awarded to Law and Economics Consulting group (LECG), with a final report due by 15 August. Original start date was delayed two months due to late carrier data submissions.

25 June 97 In a point paper (attachment #4 of a Memorandum from Rear Admiral Richard Naughton, Director, Plans and Policy, USTRANSCOM, to MTMC, MSC, and MARAD, the JTMO confirmed its understanding of USTRANSCOM expectations and goals with regard to implementing desired VISA features within the Universal Service Contract. USC1 would be a bridge peacetime contract between current DOD peacetime commercial ocean and intermodal transportation services contracting practices and OSD determined acquisition policies (based on later decisions concerning competitive (BVR) vs. non-competitive (UCR) procurement methodologies). USC1 would be effective between 01 Feb 98 and 30 Sep 98 and a follow-on USC2 would operate between 01 Oct 98 and 30 Sep 99. USC1 would also incorporate service contract standards to meet customer requirements currently designed to customer needs in specific service contracts. Furthermore, USC1 would reflect executed Voluntary Enrollment Contracts (VEC) for VISA Stages I, II, and III to include basic activation procedures; DOD annual minimums for VISA Stages I, II, and III commitments (to include vessel capacity and intermodal systems); Stage III rate methodology; peacetime cargo allocation provisions; and on-the-shelf basic agreements (such as VISA Intermodal Contingency Contracts (VICC) for Stages I, II, and III).

29 Jul 97 LECG contract extended due to carriers' failure to release proprietary data. Final report expected 30 September.

27 Aug 97 VISA (Government) Executive Level Meeting to develop key USTRANSCOM and MARAD positions in preparation for the 18 September NDTA CEO Sealift Conference and to reemphasize the importance of committing the resources required to meet VISA timelines. USTRANSCOM's Deputy Commander in Chief requested the meeting. COMSC, CDR MTMC, and several other higher level military and civilian officials of MARAD, USTRANSCOM and MTMC attended. A key concern was the timeline for issuing the FY98 peacetime contract RFP (now called the Universal Service Contract 1). USC1 was envisioned to be the first peacetime contract that started the transition from the traditional JTMO Global and Services Contracts to a more streamlined VISA peacetime contract. [USC1 was to incorporate several VISA features (readiness commitments; best value contract consideration for price, service, and commitment, etc.) and also allow for combining global contract and service contract features under one contract. The anticipated implementation date of 01 February was critical because it would provide an eight month bridge between when the old contracts expired and the full VISA contract (USC2) would be awarded in October 1998 to align

expired contracts into a single contract for the customers. USC1 was awarded on time; however, it would not include all the features originally intended. For example, USC1's commitment would be for Stage III only and would not include the "best value" concept (which would have selected carriers for cargo award based on price, service, and level of commitment to the VISA program).] The meeting also revealed that the Rate Methodology Working Group (RMWG) anticipated the delivery of the final draft of the Stage III rate methodology to the EWG in December 1997 (with the results intended to be incorporated into the USC2 final contract). The UCR/BVR evaluation process would continue.

29 Aug 97 RMWG completed first internal working draft of the VISA Stage III rate methodology. DCAA completed its audits of carriers.

16 Sep 97 Fax from Sea-land purporting to be from the CEOs of participating VISA carriers expressed several concerns about the overall health of the VISA partnership to include the decrease in the peacetime cargo base; the perceived fragmentation of overall DOD policy actions specifically with regard to the Federal Streamlining Acquisition Act and the application of DOD Directive 4500.9; and DOD actions to reduce overall transportation costs and the "fragmented" transition of the intermodal sealift acquisition process from MSC to JTMO (which had the components competing with one another for limited DOD transportation funds).

18 Sep 97 NDTA CEO Sealift Committee Meeting-VISA In progress Review. Agenda items included the VISA enrollment status and process; Stage III rating methodology report; and the status of the Universal Service Contract.

30 Sep 97 Publication of Defense Transportation System (DTS)-Functional Process Improvement (FPI): Technical Report Study/Services (Voluntary Intermodal Sealift Agreement Concept of Operations). Science Applications International Corporation (SAIC), as the subcontractor of Computer Sciences Corporation (CSC), developed a VISA Concept of Operations (CONOPS) plan for USTRANSCOM to provide specific amounts of commercial US flag sealift capacity for the two major regional operational plans (OPLANS) of Korea and Southwest Asia. The CONOPS would be used by USTRANSCOM's Mobility Control Center (MCC), MTMC, MSC, and MARAD to meet DOD contingency sealift requirements. The report also outlined several recommendations for implementing the VISA CONOPS into USTRANSCOM planning and execution procedures.

?? Sep 97 In a briefing prepared by the Joint Traffic Management Office entitled "VISA Universal Service Contract: Best Value for the Customer," the JTMO advocated a phased approach to Best Value. With Universal Service Contract (USC1), the VISA participant would be contractually bound for a VISA Stage III commitment and the competitive criteria would be a low cost, technically acceptable service. With USC2, the VISA participant would be bound for VISA Stages I, II, and III commitments; and the competitive award criteria would be Best Value (readiness, service, and price).

08 Oct 97 Completion of the parallel assessment of UCR and BVR methodologies in the Pacific theater which had begun on 05 February and involved Sea-Land and American President Lines. USTRANSCOM shipped approximately 9,000 containers on each contract over this assessment period. Initial conclusion was that in a global environment neither UCR nor BVR, in present form, represented viable opportunities for enhancing the acquisition process supporting VISA.

09 Oct 97 LECG contract extended for a second time due to carriers' failure to release data in a timely manner. Final report expected by 31 October.

29 Oct 97 NDTA CEO Sealift Committee meeting-VISA Update. USTRANSCOM confirmed its direction to MSC and MTMC to ensure that VISA partners were given priority consideration for DOD cargo; its request of OSD/TP (Office of Transportation Policy) to look at policies and opportunities to increase DOD peacetime cargo available for VISA partners; and its effort to refocus the Executive Working Group (EWG). EWG members acknowledged the industry's expectation that VISA would minimize risks associated with contingency activations and ensure maximum peacetime business; and confirmed the DOD expectation that VISA would provide assured access to US flag fleet capacity to meet contingency requirements.

07 Nov 97 Rate Methodology Working Group completed the second working draft of the VISA Stage III rate methodology and forwarded it to the EWG for review and comment. The methodology developed two types of rates: unit and per diem. The unit rate applied to individual cargo shipments, and the per diem rate to vessel time charters. There were three types of unit rates: container, measurement ton, and square foot. Rates were specific to both carrier and vessel string.

12 Nov 97 In a letter to Mr. Joseph Sanders, President, Alaska Cargo Transport, Inc., Air Force General Walter Kross, USCINCTRANS, told Sanders he had assigned the USTRANSCOM Acquisition Oversight Group (AOG) the mission of providing strategic guidance, acquisition oversight, and expertise for VISA contracting efforts; and their primary effort would be to ensure that the solicitation for the Universal Service Contract 2 (USC2) was issued complete and on time in spring 1998, and that it incorporated lessons learned from the current USC1 solicitation.

15 Dec 97 RMWG completed rate unit and charter rate analysis by comparing benchmark rates with rate methodology and past contract rates.

16 Dec 97 Law and Economics Consulting Group (LECG), Inc., submitted its final report, "An Analytical and Empirical Evaluation of the Proposed VISA Stage III Contingency Ratemaking Methodology." Assessing the VISA rate methodology proposed by the RMWG, the report concluded that the benchmark rates contained in this study provided a reasonable benchmark against which the determination of Stage III rates could be evaluated; however, the rate methodology produced actual carrier rates that would be higher than benchmark rates. Furthermore, the report also concluded that

DOD's ability to negotiate Stage I and Stage II rates on the basis of full knowledge was severely impaired.

15 Jan 98 Memorandum from the Under Secretary of Defense (Acquisition and Technology) established DOD acquisition policy for transportation and related services. The policy balanced acquisition reform and readiness goals to improve the quality of transportation services provided by DOD; required the use of best commercial practices and best value evaluation procedures when acquiring transportation services under both Federal Acquisition Regulation (FAR) and FAR-exempt processes; and required commercial transportation providers to commit to participate in one of the readiness programs (to include VISA) as a condition for receiving DOD business.

26 Jan 98 In a letter to Mr. Tim Rhein, President and CEO, American President Lines, Ltd., USCINCTrans, Air Force General Walter Kross, explained that USC2 would be the first major "best value" procurement for sealift services. He emphasized that the principal strategic tenets for USC2 were the equitable allocation of cargo based on readiness commitment and a revenue-based contingency rate methodology (a derivative of the UCR) that met the spirit and intent of VISA and the Maritime Security Program. He also stated that, based upon lessons learned from the UCR and BVR tests, USTRANSCOM was developing a best value, peacetime acquisition strategy for USC2, which established readiness, service, price, and past performance as award criteria.

05 Feb 98 A letter from Mr. William Lucas (Deputy to the Commander of MTMC) to Mr. Frank Weber (TCJ4-D, USTRANSCOM) concerning MTMC's unified position on VISA implementation issues made the following points: MTMC/TCJA was working the possible antitrust issues; the rate methodology's average revenue concept was acceptable but need to be refined to exclude revenue earned between OCONUS inter-port movements and unit rates needed to be recalculated based on direction, size, and type of container; the rate methodology could not exclude the contracting officer from reviewing carrier and expense data; and that MTMC need to address an alternative methodology for those carriers who couldn't and wouldn't provide data (and what would constitute benchmark rates for them).

09 Feb 98 The Rate Methodology Working Group submitted the third revision of the VISA Stage III rate methodology (from the original November 7, 1997 draft) for the review and comment of the members of the Executive Working Group. Major revisions included a requirement to price unit rates by direction, and container rates by both direction and size/type.

17 Feb 98 In a Memorandum to the Vice Commander of AMC, the Commander MSC, and the Commander MTMC, USTRANSCOM's Deputy Commander in Chief, Army Lieutenant General Roger G. Thompson, Jr., forwarded a 15 Jan 98 memo (see above entry) and directed his component commanders to implement this transportation acquisition policy immediately.

25 Feb 98 In a Memorandum to the Chairman of the JCS and the Secretary of Defense, USCINCTrans, Air Force General Walter Kross, formally responded to the Secretary's memorandum of 30 Jan 97 approving VISA and requesting information on the evaluation and future direction of the acquisition process which would support VISA. General Kross's bottom line conclusion was that in a global environment neither UCR nor BVR, in present form, represented viable opportunities for enhancing the acquisition process. He also stated that based on experience and lessons learned with UCR and BVR, USTRANSCOM would work towards a "competitive, best value acquisition strategy" that would establish readiness, service, price, and past performance as award criteria. Readiness would be achieved by mandatory participation and pre-established minimum commitments to Stages I and II of VISA; and contingency requirements would be contained in a separate contract vehicle which would be a prerequisite to obtaining peacetime business. General Kross went on to state that since it was now understood that there was a benefit to using the commercial market as a baseline to negotiate DOD peacetime rates, USTRANSCOM would be tailoring the process to focus on developing individual company commercial rates (based on a company's unique market experience) for contingency application. He firmly believed that the use of individual commercial rates complied with the Maritime Security Act and offered companies of differing sizes and efficiency realistic compensation for participating in VISA.

02 Mar 98 In a staff summary sheet response to a DCINC tasker to provide information concerning the history of the RMWG and the current status of VISA Stage III Rate Methodology, USTRANSCOM's Director of Plans and Policy, Navy Rear Admiral Richard Naughton, confirmed that VISA Stage III Rate Methodology would satisfy the requirements of Section 653(c) of the Maritime Security Act of 1996 (requiring MSP subsidized carriers participating in an emergency preparedness program to be paid not less than commercial market charges for like transportation resources, and to be paid all carrier costs associated with the provision and use of the carrier's resources during a contingency). He also stated that he remained his intention to include VISA Stages I, II, and III in the USC2 solicitation in order to provide carriers the compensation they were looking for prior to signing up to the three VISA stages.

10 Mar 98 In a Memorandum to VISA Participants, MTMC/JTMO announced that USTRANSCOM and MTMC had determined that ocean and intermodal transportation services provided under VISA qualified as "commercial items" as defined in FAR Section 2.101. As such, the Contracting Officer for Universal Service Contract 2 (USC2) and other MTMC contracts which incorporate VISA and its associated Contingency Rate methodology would not obtain certified cost and pricing data from offerors in determining whether Contingency Rates generated from the proposed VISA Stage III rate methodology were fair and reasonable. However, the Contracting Officer might have to require information other than certified cost and pricing data to support a determination of price reasonableness or cost realism.

12 Mar 98 Fourth revised draft of the VISA Stage III Rate methodology forwarded to the EWG and VISA carriers for review and comment. Draft included all written and verbal comments and recommendations made by EWG members to date, and

incorporated several major changes discussed at the 06 March meeting of the EWG: revised language that gave the Contracting Officer a right to review carrier data consistent with established protocols; additional requirement to include inter-port cargo handling expenses when calculating unit rates; and revised language that required the carrier and the government to negotiate firm fixed prices for certain services (rather than actual cost reimbursement).

18 Mar 98 In a Memorandum to Commander, MTMC, USCINTRANS, Air Force General Walter Kross, reaffirmed that the USC2 was the single largest sealift contracting instrument within USTRANSCOM and could fundamentally shape the strategic relationship with industry. General Kross also summarized his guidance and policy expectations that were designed to ensure that peacetime contracting methodologies employed by Transportation Component Commands support and promote overall strategic objectives and policies.

20 Apr 98 NDTA VISA CEO's Meeting. Members decided to: postpone USC02 peacetime contract implementation until April 1999; establish a joint government/industry working group to develop and implement VISA contingency contracts by October 1998; and establish a second joint government/industry working group to develop a Best Value procurement for implementation in April 1999.

04 May 98 Seven VISA carriers sent a letter to USTRANSCOM's DCINC, Army Lieutenant General Roger G. Thompson, Jr., formally agreeing to what they understood to be USTRANSCOM's request to extend the USC1 for six more months (beyond 01 October). The carriers also confirmed their general understanding that the extension was necessary because of the urgency of finalizing the VISA Stage III Rate methodology by May 1998 and because more time was required for the structuring and refinement of the USC2 Best Value solicitation.

13 May 98 Seven VISA carriers sent a letter to USTRANSCOM's DCINC, Army Lieutenant General Roger G. Thompson, Jr., confirming their consensus that the Best Value process was the logical vehicle to facilitate the move away from DOD's current low price award system. They also stated that they believed that a complete reworking of the current USC2 draft was necessary and that rewording any given section of the RFP would be counterproductive and only serve to frustrate the entire process.

01 Jun 98 In a letter from the MTMC Contracting Officer, (MTAQ-J), VISA carriers were asked to select from one of the three approved rate methodologies for Stage III services (even though two of the three were still in the final stages of approval): Method A (Revenue Based); Method B (Peacetime Rate Based); and Method C (Negotiated Contingency Rate). One change to Method B would give the carrier a choice between using the DCAA to verify expense data or directly negotiating expenses with the contracting officer. Method C required the carrier to negotiate all rates and expense deductions with the contracting officer.

05 Jun 98 In a Memorandum to Commander, MTMC, Mr. Paul Hoeper, Assistant Secretary of the Army (Research, Development, and Acquisition) formally issued a Class Justification and Approval (J&A) for other than full and open competition for the acquisition of ocean and intermodal services for the Department of Defense. The approval was contingent upon MTMC preparing and approving an acquisition plan for those ocean and intermodal services prior to the release of any solicitations resulting from the J&A.

19 Jun 98 In a cover letter from Mr. Kenneth Gaulden (Government Marketing) of Sea-land, Inc., the Voluntary Contingency Contract (VCC) Working Group presented its Vision to LTG Roger Thompson. This Vision included the carriers' specific understanding of the complete VCC process from peacetime through all activation phases of VISA.

02 Jul 98 In a Memorandum to the Commander, MTMC, Army Lieutenant General Roger G. Thompson, Jr., Deputy Commander in Chief, USTRANSCOM, provided preliminary guidance concerning VISA Stage commitment levels and incentive fees for Stages I and II, to include specific data concerning VISA Stage commitment levels and guidance for VISA Stage I and II rate incentives for input to the VISA Contingency Contract (VCC). While the VISA rate methodology compensated VISA carriers for their services during a contingency, in addition to the established rates, the incentive fee would be added to the Stage I and II rates to reward carrier efforts and commitments to meet DOD's time critical contingency requirements. The tentative baseline incentive fees to be reviewed for use during Stages I and II were 15 percent and 10 percent of the Stage III rates, respectively. This memorandum and attachments also addressed VISA activation in that MARAD and USTRANSCOM, after a year of analysis and coordination with the carriers, determined each carrier's capacity commitment level for VISA Stage III. The attached commitment levels for VISA Stage III were approved for FY99.

15 Jul 98 The EWG carriers submitted a revised VISA Vision for the Voluntary Contingency Contract to Army Lieutenant General Roger G. Thompson, Jr., Deputy Commander in Chief, USTRANSCOM.

28 Jul 98 Progress Report on the Development of Contingency and Peacetime Contracts for Military Cargo prepared by carriers actively participating in the Voluntary Contingency Contract Working Group, USC02 Working Group, and the Executive Working Group (with copies provided to senior leadership at USTRANSCOM). The report highlighted major differences between military and carrier views of many economic and management issues.

17 Aug 98 In a letter to Mr. Joseph Sanders, President of Alaska Cargo Transports, Inc., Air Force General Charles T. Robertson, Jr., Commander in Chief, USTRANSCOM, formally responded to a Progress Report on the Development of Contingency Peacetime Contracts for Military Cargo, (see above entry). General Robertson made the point that the Progress Report might not have presented a full picture, and that it appeared to understate the achievements to date, minimized the

complexity of the issues being addressed, and presented an inaccurate picture of the current status of VISA efforts. He attached a USTRANSCOM Staff Assessment of VISA Implementation for review by the carriers.

18 Aug 98 (After the Government had initially proposed a 15% incentive rate for Stage I and 10% for Stage II) The carriers presented an Incentive and Compensation Package Analysis, prepared by McKenna & Cuneo, LLP, to USTRANSCOM. This initial analysis proposed a 400% incentive for both VISA Stages I and II, but did not appear to have a quantitative basis. this isn't on the paper copy and doesn't make much sense--peg

02 Sep 98 In a letter to Mr. William Lucas, Deputy to the Commander, MTMC, Mr. James Caponiti, Associate Administrator for National Security, MARAD, expressed his reservations concerning the draft VISA Enrollment Contract (VEC), posted on 21 August, which did not afford the Maritime Administration the opportunity to sign or co-sign the VEC with DOD. He also pointed out that with the emergence of DOD's VISA Contingency Contract (VCC) and its Drytime Contingency Contract (DCC), and the appearance that these documents have become DOD's primary instruments for VISA contracting, MARAD did not understand how its execution of the revised draft VEC, which essentially only identified and committed VISA participant capacity, would infringe on DOD authority.

14 Sep 98 Voluntary Intermodal Sealift Agreement Report on Price, Risk and Trade Analysis, chartered by USTRANSCOM's Deputy Commander in Chief, completed by a DOD analysis team (consisting of personnel from USTRANSCOM (TCJ4/TCJ5), MTMC/MTMB, Stanley Associates, and CRC). The goal of the DOD analysis team was to evaluate the carriers' presentation on proposed incentives using factual data and historical documentation. An Executive Summary, prepared by Rear Admiral Richard Naughton (Director, Plans and Policy, USTRANSCOM), concluded that the carrier proposed 400 percent incentive for VISA Stages I and II was not supportable, based on cargo volume and absent any model to predict market share recovery. However, it appeared that an incentive of between 0 and 40 percent could be justified. Furthermore, none of the analysis supported industry's assertion of significant market losses.

05 Oct 98 Air Force General Charles T. Robertson, Jr., USCINCTRANS, formally responded to Mr. Timothy Rhein's, (President and CEO, American President Lines, Ltd.) letter of 8 September inquiring as to whether or not the VISA Contingency Contract and the Universal Service Contract (USC2) received equal support and priority. General Robertson confirmed that USTRANSCOM considered both the VCC and the USC2 programs equally high in priority; however, he added, the command was firmly committed to completing the VCC before focusing efforts on the USC2 peacetime procurement (as agreed to at the April 1998 CEO meeting and the 17 September 1998 EWG meeting).

09 Oct 98 After an earlier analysis resulted in a USTRANSCOM decision to limit VISA Stage I and II incentives to not more than 30 percent, USTRANSCOM received a

copy of the Executive Summary of VISA Program: An Analysis of Carrier Incentive Compensation (October 1998) prepared by A.T. Kearney, Inc. The carriers had contracted with A.T. Kearney to provide an objective analysis of fair and reasonable incentive payments for Stages I and II of VISA activation. Kearney's risk-based model addressed the significant business and financial risks faced by the carriers to include service disruption; customer response and disruption of global customer relationships; range of potential military scenarios; and lost business opportunity. The model was designed to identify the incentive rate that would make the carriers indifferent to joining Stages I and II (much as if they were to make an investment decision) and included a Monte Carlo simulation to examine the probability that specific sets of assumptions would occur. The model determined that the average VISA contingency price premium would be 411 percent. Kearney maintained that the DOD Revenue Analysis Model significantly understated business risk by focusing only on a single military scenario; confining service disruption to only the single route in question; failing to cover lost business opportunities, and assuming that customers will not perceive increasing risk of service disruption prior to the military emergency.

16 Oct 98 MTMC issued the first draft of VISA Contingency Contract (VCC). The carriers provided thirty pages of comments on the draft in November.

16 Oct 98 Rate Methodology Working Group completed the final draft of the VISA Stage III Revenue based methodology for distribution to all VISA participants. This commercial revenue-based compensation methodology established pre-determined rates for inclusion in the VISA Contingency Contract (VCC) which would implement the methodology; and these rates applied to US flag vessels enrolled in VISA Stage III. Furthermore, the methodology was intended to fully compensate the carrier at the rate it would have earned, but for the contingency.

05 Nov 98 Point paper on VISA Stage I and II Incentive Rates, by Army Lieutenant Colonel Thomas Hillard (TCJ5-AS), recommended USTRANSCOM's position that a maximum 40 percent incentive rate provided VISA carriers with sufficient revenues to offset the additional costs and business risks associated with supporting DOD during a contingency. USTRANSCOM evaluated the A.T. Kearney model and its underlying assumptions, and replaced those assumptions with those that might be more reasonable (to include assumptions of longer contingencies, less time to recover lost market share, and less years of discount given to commercial customers for perceived risk).

07 Nov 98 Second draft of VCC issued by MTMC prior to receiving comments from the carriers (see above entry).

12 Nov 98 A VCC USTRANSCOM/MTMC and industry Working Group Meeting held to review carrier concerns highlighted in their initial comments to the first draft of the VCC.

16 Nov 98 Staff Summary Sheet informed USTRANSCOM's Deputy Commander in Chief that Sea-Land obtained an amendment to the Shipping Act of 1984 authorizing a

US flag vessel operator, in a vessel sharing agreement with a foreign flag operator, to prohibit the foreign flag operator from the carriage of preference cargo in US flag space. Essentially, this amendment allowed US flag carriers to close off potential competition for military cargoes from foreign flag lines that leased space on US subsidized vessels.

04 Dec 98 Modified Voluntary Sealift Intermodal Sealift Rate Agreement (VISRA) filed with the Federal Maritime Commission (and published on 17 December as 63 FR 69629). In a point paper prepared by Air Force Brigadier General Gilbert Regan, Chief Counsel, USTRANSCOM, on 21 December for Deputy Commander in Chief, USTRANSCOM, to outline the potential pros and cons of the modified VISRA for DOD, expressed concern that VISRA language authorized carriers to discuss matters without the presence of government officials allowing carriers to: collectively refuse to sign VEC/Contingency Contracts; function as an economic power block to unduly influence the terms of the contingency contract or peacetime contract; or engage in coordinated carrier action after a final RFP or IFB (even though VISRA attorneys maintained that VISRA was not intended to undermine the integrity of the procurement process).

24 Dec 98 A Staff Summary Sheet prepared for USCINCTRANS by Navy Rear Admiral Richard Naughton provided a VISA Update to CEOs and NDTA. RADM Naughton informed the CINC that the contracting process has been ongoing since mid-October and a draft VCC had been reviewed by industry. He also indicated that industry's reaction to the draft VCC was in the form of a revisionist approach, reopening several previously agreed upon areas and submitting new areas of concern to industry. He stated there was renewed carrier interest in additional compensation areas because USTRANSCOM fixed the "additional profit" incentive at 40 percent in lieu of the industry desired 411 percent.

08 Jan 99 In a letter to Air Force General Charles T. Robertson, Jr., USCINCTRANS, Maritime Administrator, Clyde Hart, noted that the Rate Methodology was in its final form, that it was created as the foundation upon which to build VISA carrier compensation, and that in concept it met the requirements of Section 653 of the Merchant Marine Act of 1936. He also noted that MTMC recently issued the VISA Contingency Contract (VCC). However, he expressed his alarm over the fact that the VCC might take precedence over the Rate Methodology; and he believed that without a strong, definitive commitment in the VCC and other documents that the Rate methodology was paramount, the Maritime Administration's statutory responsibilities would not be satisfied.

08 Jan 99 In a letter to the Secretary of the Federal Maritime Commission, MTMC's Office of the Staff Judge Advocate filed its final comments concerning the Voluntary Intermodal Sealift Discussion Agreement, previously known as the Voluntary Intermodal Sealift Rate Agreement. Legal representatives of MTMC and TRANSCOM had substantial discussions and negotiations with legal representatives of the Agreement and agreed upon language that was acceptable to all parties with regard to maintaining the integrity of the competitive procurement process and the program goals of VISA.

11 Jan 99 In a letter to Air Force General Charles T. Robertson, Jr., USCINCTRANS, Mr. Frank Halliwell, President and CEO of Lykes Lines Limited, expressed his concern that the most recent draft of the VCC (dated 23 December) continued to contain provisions that represented “unacceptable commercial risks to Lykes and insupportable service assumptions that cannot physically be realized by ocean carriers in the event of a contingency.” He stated that he could not commit his company “to a contingency contract that threatens our commercial viability and gives credence to an emergency preparedness program that looks good on paper (at least to the military), but that cannot deliver the long-term contingency sealift capability that the military needs.”

15-20 Jan 99 After USCINCTRANS tasked MTMC to clarify language on key issues associated with the final review of the VCC, MTMC made major progress working the issues and then briefed the VCC Review Group on 21 January.

21-22 Jan 99 Established to conduct a final interview of the VCC, the VCC Review Group consisted of Army Lieutenant General Roger G. Thompson, Jr., Deputy Commander in Chief, USTRANSCOM, as Chairman and representatives from the government and industry. The group met to identify and fix critical issues, reduce ambiguities, and identify items that might need to be deferred to VCC2. It also reviewed over 70 issues identified as “major” by the carriers and resolved 62 of them. Several issues were identified that needed to be worked in the future within the JPAG process.

29 Jan 99 In a letter to Air Force General Charles T. Robertson, Jr., USCINCTRANS, Maritime Administrator, Clyde Hart, formally approved the VISA Revenue Based Methodology (RBM). He stated that it was his understanding that the VISA Enrollment Contract would specify that for carriers choosing Rate Methodology A, the RBM would be the governing document for determining VISA compensation; and that he was satisfied that the compensation elements relative to the RBM required by Section 653 of the MSA were being met. It was also his understanding that the RBM would be incorporated into the VCC.

05 Feb 99 In a Memorandum to the Assistant Secretary of the Navy (Research, Development & Acquisition), the Commander, Military Sealift Command, formally requested approval of Class Justification and Approval (J&A) for other than full and open competition with regard to Drytime Contingency Contracts (DCC) executed between the Government and VISA participants with respect to each vessel committed to VISA. The DCCs would serve as the implementing contract for VISA and be used to time charter entire ships. The rate for inclusion in the DCCs for the contingency charter of the ships would be determined by one of three rate methodologies that were being developed: A, revenue based formula; B, peacetime rate formula; or C negotiated rates). Each VISA Participant would be required to submit a rate proposal using one of the three methodologies.

05 Feb 99 In a Memorandum for Headquarters, MTMC (MTAQ), the Hon. Kenneth Oscar, Deputy Assistant Secretary of the Army (Procurement), returned, with no action,

the proposed Class Justification and Approval (J&A) for other than full and open competition relating to the VISA Contingency Contracts (VCC) program. He stated that his office and the Office of General Counsel concluded that the VISA program provided for full and open competition.

03 Mar 99 In a Memorandum to all VISA Participants, Army Lieutenant General Roger G. Thompson, Jr. Deputy Commander in Chief, USTRANSCOM, announced a revised timeline that would shift the effective date of VCC02/DCC02 from October 1999 to October 2000. He stated that the VISA Executive Working Group (EWG) at its 18 February meeting recommended the timeline revision to allow a more dedicated effort to be applied to developing the peacetime USC02 best value contract, and avoid industry and government working simultaneously on peacetime and contingency contracting during the summer of 1999.

01 Apr 99 In a letter to Army Lieutenant General Roger G. Thompson, Jr., Deputy Commander in Chief, USTRANSCOM, John Graykowski, Deputy Maritime Administrator, expressed several reservations concerning proposed changes to the DOD cargo preference program that would enable DOD voyage chartered, time chartered, or Defense Transportation Systems (DTS) contracted US flag vessels of VISA participants to carry preference cargo of civilian agencies at less than fully distributed costs. While he understood that it was USTRANSCOM's legal position that DOD voyage or time chartered commercial vessels and DTS vessels were not military or government ships, Graykowski argued that since DOD would control the entire capacity of the voyage and time chartered vessels, which were contracted for military purposes, these vessels should be considered as military vessels and covered by OMB Circular A-76 (which generally prohibited federal government competition with its private citizens in commercial activities).

14 Jun 99 In a Memorandum for Counsel, Military Sealift Command, Brigadier General Gilbert Regan (Chief Counsel, USTRANSCOM) asserts that USTRANSCOM has been delegated authority from the Secretary of Defense to approve rates under the Maritime Security Act (MSA) for purposes of the VISA Stage III rates offered by subsidized U.S. Flag carriers.

20 Aug 99 In a Memorandum to DOD's General Counsel, USTRANSCOM's Chief Counsel, Air Force Brigadier General Gilbert Regan, requested a definitive opinion as to whether or not the letter of 12 December 1996 from the Secretary of Defense delegated MSA rate approval authority to CINCTRANS.

16 Sep 99 In a letter to Ms. Judith Miller, DOD General Counsel, Air Force Brigadier General Gilbert Regan, Chief Counsel, USTRANSCOM, requested Ms. Miller to personally review and resolve USTRANSCOM's position on the issue concerning the "delegation of SECDEF's authority under the Maritime Security Act to approve compensation for contingency sealift." General Regan stated that he was concerned about any suggested approach that might require CINCTRANS to go back to the Deputy Secretary of Defense to clarify the scope of the previous delegation.

10 Dec 99 In a Memorandum to Air Force General Charles T. Robertson, Jr., USCINCTRANS, Army Major General Privratsky, Commander, MTMC, requested formal approval for VISA Stage III rate compensation under the Maritime Security Act.

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Esher Chronology

*Propeller Club is a professional organization for members in the Merchant Marines.

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